

Māori Participation and Representation:

**An Investigation into Māori reported experiences of Participation
and Representation within the policy process post-MMP**

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Abstract

This thesis seeks to understand Māori experiences of representation and participation in the policy process of New Zealand Government. The introduction of an MMP electoral system came with a promise of more effective representation for Māori. This study aims to investigate whether Māori who have participated in the public policy process feel their participation has been effective and whether the policy process is consistently open to Māori across different fields and stages of the policy process.

This thesis will apply the social movement theory of Kitschelt (1986) to analyze Māori participation within the policy process. This western framework will be implemented under the Kaupapa Māori practices of being guided by advisors and participants, in order to conduct research that is both useful and beneficial to Te Ao Māori.

Focusing on two case studies of the Foreshore and Seabed Act 2004 and Whānau Ora this thesis reports on the experiences and perceptions of 29 interviews with Māori policy makers, advocates and community leaders. These key interviews were supplemented with complementary discussions and secondary literature to understand the experiences of Māori participating in the public policy process. This thesis aims to identify possible improvements that could be made to the policy processes to achieve the goals of Māori participation and representation which are necessary to uphold the principles of the Treaty of Waitangi.

The results of this research suggest that the change in electoral system brought about very limited changes for Māori participation and representation. It was hypothesized that differing policy fields would have different degrees of openness; however, what was found was that both case study policy fields remained closed, identifying the government's ability to close input structures as the greatest barrier to Māori participation and representation.

The findings of this research offer an understanding of the policy process as perceived and experienced by Māori. These findings provide suggestions for improving the policy process to enable more effective Māori participation and representation to shape policy early on. It is argued that greater attention to reforming opportunities for input will reduce the need for costly and exhausting confrontation and help New Zealand begin to create policies that move our society towards that nation which the Treaty of Waitangi envisioned.

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LIST OF ABBREVIATIONS

DHB	District Health Board
FPP	First Past the Post
HEC	Human Ethics Committee
MMP	Mixed Member Proportional
MoH	Ministry of Health
MP	Member of Parliament
MRAG	Māori Research Advisory Group
MSD	Ministry of Social Development
NEP	Non-Electoral Participation
NGO	Non-Government Organisations
NUMA	National Urban Māori Authority
NZPHDA	New Zealand Public Health and Disability Act
PHO	Primary Health Organisations
POS	Political Opportunity Structures
RLG	Regional Leadership Groups
RMA	Resource Management Act
TAG	Technical Advisory Group
TOKM	Te Ohu Kai Moana/ The Waitangi Fisheries Commission
ToW	Treaty of Waitangi
TPK	Te Puni Kōkiri- Ministry of Māori Development
UN	United Nations
UNCERD	United Nations Committee on the Elimination of Racial Discrimination
UNDP	United Nations Development Programme

GLOSSARY

AHI KĀ	Those Who Have the Right to Occupy the Land
AOTERAROA	New Zealand
HAPŪ	Sub-Tribe
HAUORA	Well-being, Spirit of Life, Health
HIKOI	Walk, March, Peaceful Protest
HUI	Meeting
IWI	Tribe
KAITIAKI	Guardian, Minder, Custodian over Natural Resources
KAITIAKITANGA	Guardianship, Accountability
KAIWHAKAHAERE	Director, Manager, Supervisor
KAUMATUA/ KAUMĀTUA	Elder/ Elders
KANOHI	Face
KAPA HAKA	Māori Performing Arts
KAUPAPA	A Principle or Policy, Theme, Philosophy, Ideas, Topic
KAUPAPA MĀORI	Strategy Based on Māori Philosophy
KAWANGATANGA	Governance
KŌRERO	Talk, Speak, Discuss, Discussion
KOROWAI	Traditional Cloak
KUIA	Female Elder
MAHI	Work
MAHINGA KAI	Traditional Food Sites/Gathering/Interests
MANA MĀORI	Māori Jurisdiction

MANA WHENUA	Local Authority Over Land
MANAKITANGA	Respect, Mutual Trust, Concern
MĀORITANGA	The Very Essence of Being Māori
MAMAE	Sickness, Pain, Injury, Hurt
MARAE	Meeting Place
MIHI	Greeting
MOKOPUNA	Grandchild
PĀKEHĀ	A Person Predominantly of European Descent
RANGATAHI	Youth
RANGATIRATANGA	Sovereignty
REO	Language
RŪNANGA	Council of Collective Hapū to Manage Affairs
TAIHOA	Wait, Hold up
TANGATA WHENUA	People of the Land
TAONGA	Something of Value, Treasure
TAUTOKO	Support
TE AO MĀORI	The Māori World, Cultural Identity
TE PUNI KŌKIRI	Ministry of Māori Development
TE REO MĀORI	The Māori Language
TIKANGA MĀORI	Māori Customs and Practices
TUPUNA	Ancestor, Grandparent
TINO RANGATIRATANGA	Absolute Sovereignty
TŪRANGAWAEWAE	Home Land, A Place to Stand

WAHINE	Women
WAIATA	Song, Singing
WHAKAPAPA	Genealogy, Cultural Identity
WHAKARONGO	Listen
WHAKATAUKI	Proverb
WAIRUA	Spirit, Soul, Attitude
WHĀNAU	An Extended Family or Community of Related Families
WHANAUNGATANGA	The Relationship of Māori with their Ancestors
WHENUA	Land

Chapter One

Introduction

This thesis investigates Māori participation and representation as perceived and experienced by those Māori attempting to influence public policy. I would like to begin by reinforcing that this research belongs to Te Ao Māori. As a Pākehā researcher I have made every attempt to be guided by, stay true to, and reflect, the opinions of those I interviewed. As I will discuss further in the methods, this research in no way attempts to speak *for* Māori, nor does it claim to encapsulate *all* Māori voices. This thesis offers a way to listen to the experiences of Māori taking part in two high profile policy issues over time, and reflects on the extent to which institutional reform has assisted Māori to be heard and to achieve input into policy in a way that may further values and concerns of Te Ao Māori.

In 1993 New Zealand underwent major electoral reform, undertaking a substantial adjustment to the electoral processes on a scale that is rarely seen within modern western democracies (Lijphart 1999). It is rare to see politicians introduce a change to the electoral process that saw them enter power. In the case of New Zealand this can be argued to have occurred, in part, as a result of a political blunder (Renwick 2007). After the release of the 1986 Royal Commission on Electoral System report - *“Towards a Better Democracy,”* Lange famously made a campaign promise to put the contentious issue to a referendum during a live debate, contradicting his party’s election manifesto (Renwick 2007). The subsequent decade saw both leading parties grapple with, and take advantage of, the fallout from Lange’s mistaken promise, finally resulting in a referendum and the introduction of the Mixed Member Proportional (MMP) system.

Jack Vowles (1995) characterized the factors behind the pressures for a referendum as a “rise of voting support for minor parties and the problems of public disillusionment with successive governments failing to deliver their electoral promises (p9).” The promise of a referendum on electoral reform opened the door to an already weary New Zealand public who had recently faced a slew of neglected election promises, and party politics that sought to take advantage of the public discontent during election campaigns (Renwick 2007). The growing discontent with the First Past the Post (FPP) electoral process reflected the systems unresponsiveness to growing minority interests and partisan de-alignment, and was exacerbated by two successive ‘wrong winner’ elections (Temple 1997).

MMP came with many expectations and goals, with the overall aim of improving representation. This new system was expected to increase representation for the groups within New Zealand that were emerging or expanding, including ensuring Māori had greater representation in decision making (Report of the Royal Commission on the Electoral System 1986).

Māori participation is important both as means of furthering Indigenous rights, and as an imperative within New Zealand given the Treaty of Waitangi. Internationally this conversation has also

become increasingly important since the United Nations Permanent Forum on Indigenous Issues (2000). As the United Nations Development Programme (UNDP 2001) argued, “Indigenous peoples seek participation and representation at all levels in the decision making processes, especially those that may affect their human, developmental and environmental rights (p4).”

Geoffrey Palmer (1997) made some predictions of the policy process under MMP that are important for Māori representation in policy formation including greater pressure from opposition politicians on public servants, more meaningful public debate over government policy, interparty negotiations of individual policies, and more frequent opportunities for public input into the content of the law while it is traveling through its stages in Parliament. These predictions allude to areas where MMP is expected to provide greater Māori representation and participation within the policy process.

The initial results of the introduction to MMP were an increased number of political parties and MP diversity, in this sense MMP was seen to increase Māori representation. However, this thesis questions whether the increase in representatives has led to better representation. The expectations of MMP will be contrasted in this research with a political paradox identified by Sullivan (2009) that, despite the introduction of MMP, Māori continue to be over represented in groups that are struggling in New Zealand’s society. In effect this thesis asks why we haven’t had better outcomes in spite of increased numbers of Māori representatives in Parliament. The political paradox that Professor Ann Sullivan identified has led this thesis to question how much effect changing electoral system has actually had on Māori participation and representation in the policy process, and whether MMP has actually opened the policy process to Māori interests. The framing of this question is important as it asks whether the introduction of MMP has achieved what it was expected to do: increase overall representation, including Māori representation in decision making processes.

Maria Bargh (2013) wrote that Māori participation needs to be investigated beyond electoral participation and investigations into voter turnout, further into the scholarly realm. Given Sullivan’s observed political paradox, this thesis will argue that participation and representation in decision making goes beyond electoral politics alone, and thus this thesis will investigate the effect electoral reform has had on Māori participation and representation in New Zealand’s policy process through a broader framework. Therefore this thesis will consider how participation and representation beyond electoral politics takes the shape of social movements acting through specific strategies that vary depending on the political structures of the underlying society. This research will therefore investigate how the introduction of MMP has affected the political opportunity structures of New Zealand by investigating how effectively Māori participation and representation as a social movement can influence public policy decision making. Ranginui Walker (1989), for example, argued that Māori progress has been achieved through persistent Māori activism outside of Parliament rather than through

participation in mainstream politics. While Walker's observations were first made before the change to MMP, he alludes to a pattern in Māori representation that may continue under MMP.

The change to MMP provides this study with a timeframe as the point of electoral reform identifies a change in the political structure of New Zealand's electoral process. In order to provide findings that can have future applications it is best to study the political structure that is currently in effect. This does not mean that pre-MMP struggles and policies will be ignored, but by focusing on current Māori participation and representation this research will be able to identify findings that have application within the current system and provide suggestions looking to the future.

The value of this research lies in the experiences of Māori participation and representation as perceived by those attempting to influence the policy process. I argue that an investigation into Māori representation is problematic without a wide ranging and open analysis of Māori opinions of the current practice, effectiveness and propositions for improvement. Therefore this research will not simply conduct a review of the surface level signs of representation, such as voter turnout and number of Māori MPs or policy officials. Although these are important and complementary data, these do not tell us the reality of Māori representation as experienced and perceived by Māori attempting to participate in the policy process. This research therefore intends to be an open investigation into the many Māori opinions of representation and participation within the policy process, to allow Māori to utilize this study as a voice piece for their opinions. To reiterate, this project in no way claims to speak *for* Māori, nor does it claim to encapsulate *all* Māori opinion, or to come from a Māori view point. There is a broad range of Māori opinions and this thesis has attempted as best as possible to reach out to, and remain open to these.

The remainder of this chapter will discuss the importance of effective Māori participation and representation in national policy, by reviewing the development of international indigenous/group rights movements, and the significance of the Treaty of Waitangi in New Zealand. This will be followed by a literature review developing the framework which will be used to analyze the current political opportunity structure of New Zealand and the access points available to Māori within the policy process.

Group Rights and Representation

The argument for ensuring minority representation in national policy making and legislatures has resulted from international democratic concerns that the majority rule aspect of many democratic regimes affords minority groups little influence on legislation (Gutmann 2003). Under "majority rule" there is arguably limited opportunity for indigenous groups to determine their group's culture and conduct when they fall within the minority: with little power over decision making it is easy to subjugate the needs of the few to the desires of the many (Moore 2003). Given the majority rule threat to minority groups, particularly indigenous groups, the development of Indigenous rights and group rights

movements has led to discussions of governance, often with calls for self-governance and self-determination.

There are many ways indigenous representation or self-determination can be conceptualized in political arrangements. Magallanes (2004 p1) for example, discusses indigenous self-determination in terms of “separate indigenous political representation.” She identified ideas such as guaranteed political representation, indigenous parliaments, and increased representation for indigenous peoples within mainstream politics. However Robbins (2010) argued “it is important to recognize that indigenous aspirations for self-determination do not necessarily mean that indigenous minorities aspire to full secession or independence from the nation state (p259).” As a balance to the above challenges of the ‘never neutral’ majority rule institutions of a nation (Kymlicka and Norman 2000), self-determination can be seen as an increase in external protections to minority Indigenous rights *within* the nations systems. Kymlicka saw group-based rights recognized through protections “such as territorial autonomy, veto powers, guaranteed representation in central institutions, land claims, and language rights (Kymlicka 1996 p106),” conceptualized as the “recognition of Indigenous rights through political arrangements that confer opportunities for self-determination within a nation (Robbins 2010 p260).”

Murphy (2008 p 200) sets this out as a concept of ‘relational self-determination,’ which has its foundations in the calls for self-determination; with attempts to regain control over culture, language and collective outcomes while appreciating the interconnectedness of groups within a state. This concept of relational self-determination is reflected in the UN Declaration on the Rights of Indigenous Peoples 2007 and supported as important for upholding Indigenous rights. Murphy (2008) argued that self-determination as an exemption from mainstream state policy may not be the answer with complex interdependence. Young (2000) similarly calls for shared forums of democratic decisions that will ensure governance is conducted by compromise and consent rather than imposition and dominance.

In summary, the author’s reviewed in this section argue that without careful planning, the majority rule nature of democracies can threaten indigenous group rights to self-determination and cultural protection. The interconnected nature of many groups means separatist notions of governance are unrealistic and relational self-determination from within a nation is required. Relational self-determination is achieved within a nation through effective representation within decision making processes and is therefore an imperative of a nation as a fundamental group/indigenous right.

Representation and the Treaty of Waitangi

The above discussion of the need for group/indigenous self-determination through effective representation will be extended within this section to be further accentuated in the New Zealand context given the Treaty of Waitangi. Treaties with indigenous peoples were not uncommon under British imperial expansion however few feature so strongly in the unfolding of nationhood as does the

Treaty of Waitangi. “For New Zealand, the instrument has been variously described as a ‘founding document’, a ‘partnership between races’, an ‘approximation of a fundamental charter’, ‘part of the essence of the national life’ (Joseph 2004 p1).” This document is arguably one of New Zealand’s constitutional documents and is the source of many political debates within New Zealand (Palmer 2008). The Treaty of Waitangi is one of the documents that make up New Zealand’s unwritten constitution, along with the Constitution Act 1986 and our Constitutional Conventions. Especially important to Māori is the way the Treaty of Waitangi is upheld within New Zealand, as this agreement is a fundamental element in their struggle. Being Treaty partners means that effective representation for Māori within Parliament and subsequently in the policy and decision making process is a matter of utmost importance, verging on a constitutional right (Tawhai and Mulholland 2010).

The Treaty of Waitangi has a contentious political standing attributed to the conflicting understandings of the Treaty. This document is debated on many different levels; the standing of the Treaty, the meaning of the written words, the translations, the principles of the Treaty, the political relevance, and many more. It would take an entire thesis on its own to cover even a small portion of the contentious issues of the Treaty, and so it should be understood that this thesis does not give a comprehensive list of Treaty issues in New Zealand politics; however, there are some specific issues attached to representation and participation and more specifically to the case studies of this thesis.

Firstly there is the challenge of the difference between the wording of the English and Māori versions of the Treaty, particularly in regard to ‘sovereignty’ and what this means for the imperatives of representation. In Article One of the English version, Māori cede ‘sovereignty’ to the Crown, however the Māori version uses ‘kawangatanga,’ translating as ‘governance,’ while Article Two uses the term ‘tino rangatiratanga’ which more closely translates to the ‘sovereignty’ of Article One. The above discussions of calls for self-determination to defend group rights are complimented by the Treaty promises guaranteeing tino rangatiratanga and Māori control over all matters Māori. Contemporary Māori theorists, such as Mason Durie, argue that tino rangatiratanga is the Treaty equivalent of self-determination, which aligns with relational sovereignty in the Declaration on the Rights of Indigenous Peoples (Durie 2004). Furthermore in Article Two the use of the term ‘taonga’ takes the Treaty beyond western understandings of ‘property’ to understandings of things like health and cultural practices, both of which are fundamental within the case studies. In brief:

From the Crown perspective, the Treaty has been perceived as Māori submission to British sovereignty (Article 1) in exchange for British Citizenship (Article 3) with traditional property rights to be protected (Article 2). A contemporary Māori perspective is that the Treaty conceded to the Crown a right to administer the country in the interests of all inhabitants, Māori and Pākehā, but that an absolute guarantee of Māori control over all matters Māori applied. Thus,

debate revolves around the extent to which the Crown's powers under Article 1 are limited by the guarantees in Article 2 (Barrett and Connolly-Stone 1998 p2).

As argued by Tawhai and Gray-Sharp (2011) “the making of public policy for Māori without Māori input or direction, now and in the past, is considered a breach of the tino rangatiratanga guarantee (p2)” made in Article Two. In this light it is evident that appropriate Māori representation is important. Tawhai and Gray-Sharp’s claim is strengthened with reference to the above discussion of the risk a dominant culture in government poses when group representation is not effective (Kymlicka 1995, Gutmann 2003 Maragalit and Raz 1995, Keel 2003).

Article Three has few debates over the translation; however, the meaning of rights of equal citizenship draws questions of equal opportunities or equal outcomes. The previous discussions within international calls for effective representation identify the majority rule power imbalance. The cumulative effect of the last century of policies by the dominant Pākehā government has created an environment with such a large power imbalance that Māori arguably no longer have an equal opportunity choice set, limiting their ability to achieve equal outcomes.

Treaty discussions have progressed to the principles that underlie the Treaty. Barrett and Connolly-Stone 1998 give a summary of the principles of the Treaty, emphasizing that “the overriding principle which guides the Crown's relationship with Māori is the notion of reciprocity - the exchange of the right to govern for the right of Māori to retain rangatiratanga and control over their lands, possessions, affairs and things important to them (p6).” From this overarching principle several other principles are derived including:

- The Treaty established a partnership, and the Treaty partners are under a duty to act reasonably and in good faith with one another. The needs of both cultures must be respected, and compromises may be needed in some cases;
- The Treaty guaranteed to Māori, full authority, status and prestige with regard to their possessions and interests. The Treaty guaranteed not only that possessions would be protected, but also the mana to control them in accordance with their own customs and having regard to their own cultural preferences
- The Crown must make informed decisions by having regard to the Treaty when exercising its discretions and powers. While good faith does not always require consultation, it is an obvious way of demonstrating its existence; and
- The Crown has a duty to take positive action to protect the rights of Māori, including rangatiratanga over taonga (Barrett and Connolly-Stone 1998 p6).

These principles, once again highlight the need for effective means of participation and representation to uphold these promises in New Zealand’s decision making processes. However even these principles can be questioned and debated, as Joseph (2000) stated that originally Māori thought

they had established a partnership with the Crown whereas the British thought they had gained a new colony (p 60). This point denotes the way the Treaty must be interpreted and the principles derived; however, with the vested interests of each party involved this is difficult. A guideline for this interpretation is given in the Ngāi Tahu report of the Waitangi Tribunal (1991) which states; “In extrapolating principles from intentions and expectations, equal regard should be had to the hopes and aspirations of both parties, as represented in their respective texts (p223).” An important understanding to be had is that the Treaty is a brief document, with great differences between the texts, our understanding should not be limited to the words of the text, “rather as a guide to the management of future relations between indigenous Māori and immigrant Pakeha (Stokes 1992 p187).”

It is evident from the above discussions that effective participation and representation is important to uphold the Treaty principles. Cabinet manual (2001 para3.35.) acknowledges this in stating that Ministers and their officials must consult Māori and identify any effect bills may have on Treaty principles. Murphy (2008), Robbins(2010) and Kymlicka and Norman (2000) all argue that electoral representation and reforming existing legislation provides a strategy to advance indigenous self-determination and indigenous people’s rights. This is especially relevant to ongoing discussions in New Zealand about the role of the Treaty of Waitangi and ways to enable effective Māori participation in decision making. However in 1886 “The Royal Commission found that changes to Māori representation in Parliament could not resolve important constitutional issues to do with the Treaty of Waitangi. These issues, although urgent, were beyond the scope of the Commission’s terms of reference and should be discussed in a different forum (Hay 1993 p 13).” This contradiction is a key research question of this thesis which investigates the effect changing the electoral system has had to Māori participation and representation as a Treaty imperative. It should be made clear though that these imperatives exist regardless of what electoral process or parliamentary practices and policy processes are in place in New Zealand.

Indigenous Representation Applied to New Zealand

Direct Māori representation has always been a source of contention within New Zealand; despite Treaty promises, Māori have too often been subjects of dictated policy rather than policy partners (Participant 20). Murphy (2008) concludes that self-governance alone is in fact out of reach logistically for New Zealand Māori due to interdependence, and relational sovereignty achieved through “representation in central institutions may, in fact, be the primary means of directly accessing political power (p202).”

Although there are many iwi Māori who may still maintain a relatively traditional lifestyle in terms of *tikanga* and *kawa*, the reality within New Zealand is that there is a complex interdependence between Europeans and Māori. This interdependence is described by Murphy (2008) where he noted

that “significant numbers of indigenous people either reside exclusively outside of a territorially concentrated indigenous community or circulate back and forth between their ‘home lands’ and non-indigenous communities (p 198).” This has resulted in greater participation in mainstream economy and sociocultural institutions which are subject to mainstream politics, therefore requiring better indigenous participation in politics and effective representation of their interests.

Historically Māori representation has been questionable, with designated Māori seats for example implemented not as a tool of relational sovereignty, but initially designed to limit representation and disenfranchise Māori (Magallanes 2004). The Māori seats imposed an identity on Māori as they had no ability to choose to vote under the Māori electoral roll and Māori votes counted for less than Pākehā votes. As a result Māori representation was significantly disproportionate with the four designated seats accounting for what would have been fourteen to sixteen members on a per-capita basis (Murphy 2008). This meant that each seat was to represent a hugely diverse number of communities and many more people than general seats.

The Māori electorate seats were originally a temporary measure and given their challenges the 1986 Royal Commission on the Electoral System recommended that Māori seats be removed, as they promote separatist notions and can prevent competition of political parties in considering the Māori vote. The ability to remove these seats stems from the fact they are not entrenched. This recommendation was not followed due to the political volatility surrounding implementation of such a recommendation; however, to avoid the original limitations on the Māori seats they became proportional depending on the size of the Māori roll. This would create an increase in the number of Māori electorate seats and therefore representation, which is described by Boston et al (2000) to be the “effect intended by the Commission (p30).”

Boston *et al* (2000) noted how the referendum on MMP provoked recognized Māori spokespeople to contemplate “a range of initiatives to enlarge Māori political power (p70)” these ranged from self-determination, to a separate Māori parliament; however, the question of whether these are more effective for representing Māori depends on how successfully Māori MPs can advance Māori interests in Parliament under MMP. The Report of the Royal Commission on the Electoral System (1986) also considers this question, stating that they “endeavored to consider every aspect of separate representation, including the many variants which are possible under MMP and other systems (p82).”

Many different voting systems were assessed by the 1986 Royal Commission on the Electoral System. The voting systems were evaluated on 10 criteria: fairness between political parties, effective representation of minority and special interest groups, effective Māori representation, political integration, effective representation of constituents, effective voter participation, effective government, effective parliament, effective parties, and legitimacy. What is interesting is this notion of ‘effective’

Māori representation; this highlights the difference between Māori representation simply existing, and it being effective.

Special focus was given to Māori as Treaty partners by the Commission and an in depth analysis of Māori representation was made. This focus on effective Māori representation is said by Hay (1993) to ensure the voting system picked will recognize the “special place of Māori in our society (p4).” The report established MMP as the best electoral process to increase Māori representation, as outlined below;

- a) Māori interests should be represented in parliament by Māori MP's.
- b) Māori electors ought to have an effective vote competed for by all political parties.
- c) All MP's should be accountable in some degree to Māori electors.
- d) Māori MP's ought to be democratically accountable to Māori electors.
- e) Candidate selection procedures of the political parties should be organized in such a way as to permit Māori people a voice in the decision of who the candidates are to be. (Report of the Royal Commission on the Electoral System 1986 p 87)

The Royal Commission suggested MMP as the electoral process which strikes the best balance of the above principles; however, it noted that no system could completely capture all of these. The commission identified MMP as the best fit, due to its ability to provide more proportional representation over the other systems evaluated, claiming that MMP will provide Māori with a “more just and equitable share of influence over policy (p113).”

Therefore effective Māori representation within the political process is identified as important in New Zealand as; an important element in the Treaty of Waitangi, international rights discussions, and through the discussions of the change to MMP; The Royal Commission on Electoral Reform 1986 emphasizes the importance of appropriate representation as a key element of good governance in general.

Political Paradox of Māori Representation in the Policy Process

As noted in the introduction, the process of changing the electoral system obviously came with many expectations of how MMP would lead to greater voter efficacy and higher representation for minority groups such as Māori (Vowles 1995). Temple (1997) “saw MMP as a way to recover our democracy, to re-enfranchise the citizen, to put a check on what Geoffrey Palmer had described as the 'unbridled power' of one-party cabinets (p12).” These expectations highlight how participation and representation are important elements within a democracy and are especially important for minority groups. Given one of the goals of the new electoral system was to provide effective Māori representation, the aim of this thesis is to investigate whether decision making after the introduction of MMP has achieved these desired results, and if not, why not?

Under FPP parliament was made up solely of electorate MPs who won the most votes in their area. The introduction of MMP meant that electorates could place two votes, one for their political party of choice and one vote for their local representative. This change in electoral processes also introduced a five percent threshold, which meant any party receiving over this five percent would gain seats in parliament based on their proportion of party votes (Electoral Commission 2013). The initial results of the change to MMP as seen through simplistic measurements were immediately visible in the numbers of Māori elected and increased representation of minority parties in Parliament. “It has only been in the MMP environment that Māori have gained representation proportional to the Māori population, with at least 15 per cent of the 120-122 member parliament identifying as either Māori or having Māori ancestry (Sullivan 2009 p 540).” Tawhai (2011) discusses MMP’s ability to raise Māori representation as having “ensured New Zealand’s electoral policy better delivers equal citizenship afforded to Māori in Article Three (p 103).”

However despite this increase in proportional representation in Parliament, critics argue greater political representation has not resulted in great policy gains for Māori; Sullivan (2009) noted for example, that the electoral changes were associated with something of a ‘political paradox,’ as Māori representation in Parliament grew, Māori turnout continued to fall significantly and Māori continue to be over represented amongst communities impacted by the negative outcomes of public policy including increasing rates of poverty, preventable illness and unemployment. The fact that Māori remain a struggling community leads us to believe MMP has not brought about sufficient change for Māori.

This paradox raises the question of what effective participation and representation in politics might look like. Voter turnout and number of Māori MPs are just one form of Māori participation and representation. The paradox noted by Sullivan suggests we should investigate other forms of participation and representation. MMP changed the voting system and the nature of electoral participation, but participation and representation also have many levels of non-electoral participation that may have remained unchanged. There are many forms of participation that Māori are known to undertake to influence politics; these range from protest, with hīkoi being common in recent history, to lobbying, iwi participation, and independent research (Walker 1990).

The change in voting system certainly increased Māori representatives, but the political paradox indicates that representation and participation is not solely determined by electoral participation and representatives. Despite increased Māori presence within Parliament, continued inequalities raise the question: how does this presence translate to influence on policy and decision making? Furthermore how might alternate sources of Māori opinion, such as tribal interest groups, Māori consultation, Māori intellectuals and consultants as well as MPs, evaluate their ability to influence policy?

Analytical Framework

As stated in the introduction this thesis will investigate Māori participation and representation beyond electoral politics through discussions of social movements. For the purpose of this research Māori participation might be thought of in terms of social movements and consider the structures which may act to channel, filter or block representation as political opportunity structures. The following discussion will present the development of this theoretical framework and identify political opportunity structures that provide access points to the policy process. It will then discuss some of the expectations of MMP and how these fit within this theoretical framework to build towards the hypotheses of this thesis.

Tarrow (1998) argued that modern democracies are increasingly becoming 'social movement societies.' Social movements or 'non-electoral participation' takes many different forms, and have a variety of impacts on the political process, such as challenging elites or status quo, promoting social change and informing citizens who are dissatisfied. Social movements can be an effective means of communication and influence in the policy process (Ouaranta 2013).

Eisinger (1973) first developed the 'political opportunity' framework when analyzing the race and poverty riots of American cities during the 1960s. Meyer (2004) noted political opportunity theory began with the assumption, "that social movements represent alternatives to, rather than expressions of, politics (p127)." This way of thinking of social movements then gave way to the realization that protest was not dysfunctional, and was in fact a legitimate form of influencing government used by those who were poorly positioned to make claims using conventional means (Lipsky 1970: also see McCarthy & Zald 1997).

Political opportunity theory then emerged to analyze the interaction between social movements that led to protest beyond mainstream institutional politics, "the primary point of the political process approach is that activists do not choose goals, strategies, and tactics in a vacuum, rather political context sets the grievances around which activists mobilize (Meyer 2004 p 127)." The relevance of this insight for this thesis is the notion that structures dictate and mediate actions taken by social movements. "Public Protests and direct political participation by means of direct democratic institutions are two clearly related phenomena: Whenever there is increased protest behavior, the call for more participation through direct democracy quickly follows (Fatake and Freitag 2012 p 237)."

Building on the theories of Lipsky (1970) that noted that protests were used as a means of political action for those unable to gain access to conventional political influences, Eisinger (1973) identified what he termed 'open' and 'closed' structures for citizen participation. He argued that cities with many institutional openings avoided riots by inviting participation through conventional means,



while at the other end, completely closed systems repressed riots through deterring attempts to influence policy.

Estinger's (1973) work was extended by McAdams (1982) where he identified that activism only emerged fully when external circumstances provide sufficient openness to allow mobilization without the belief it would fall on the deaf ears of a closed system, but not enough openness to channel participation and avoid protest. Kitschelt (1986) supported this, through a multinational cross-sectional comparative study, finding that closed regimes repressed social movements and did not accede readily to their demands, whereas open and responsive ones assimilated their claims and channeled them into institutional structures.

Kitschelt (1986) discussed political opportunities in terms of input and output structures. For the purpose of this thesis we may think of these as the structures of policy formation (input) and those of implementation (output). Like Eisinger (1973), Kitschelt argued that political opportunity structures at the input stage may be distinguished by how 'open' or 'closed' they are and that these limit responsiveness to movements. He identifies four factors that determine openness on the input side: the number of political parties, the capacity of legislatures to develop and control policies independently of the executive, intermediation between interest groups and the executive branch, and finally mechanisms to aggregate new demands into the processes of forming policy (1986 p62).

However Kitschelt adds a further dimension when he describes output capacities as ranging from 'strong' to 'weak,' as these factors can regulate effectiveness in policy implementation. Kitschelt identified three factors dictating strength at the output level: centralization, state control over economic resources, and finally judicial independence and authority (p62). Below the two sides of Kitschelt's policy process are depicted with examples of open/closed and strong/weak opportunity structures.

Table 1 *Political Opportunity Structures Nature and Position in the Policy Process*

<i>Input Structures</i>	<i>Open</i>  <i>Closed</i> <i>Typical with</i> <i>Typical with</i>
Political Parties	Many Few
Policy development/control	Legislature Independence Executive Control
Intermediation of ideas	Direct to Executive Through Policy Workers
Aggregation of ideas	Many Mechanisms Few
<i>Output Structures</i>	<i>Strong</i>  <i>Weak</i>
Government Departments	Centralized Decentralized
Economic Resources	State Control Market Based
Judiciary	Limited Authority Independent

Kitschelt (1986) developed several hypotheses for the relationship between political opportunity structures and the dynamics of social movements. He predicted the strategies utilized by social movements and when they will be successful in achieving their goal versus when they are unable to change the political direction or influence policy. Here he identified how social movements' strategies and impacts are dictated by the environment of political opportunity structures. Kitschelt found that open and weak political systems invited 'assimilative strategies,' so that the movements work within established institutions, whereas closed and strong systems would invite confrontational and disruptive strategies, for example, protests or the use of the courts to slow the policy progress (p 66).

Kitschelt identified three types of impacts movements could make: procedural, substantive and structural. Procedural impacts/gains open new channels of participation to legitimate the movement as a representative of demands. Structural changes transform the underlying political opportunity structures as a result of the movement, and substantive gains are policy changes as a result of a social movement. Kitschelt argued that open regimes invite procedural gains, whereas substantive gains only occur when a system is open to a movement and strong in the implementation cycle. Substantive gains are highly unlikely in weak output environments, regardless of the openness, as the inability to strongly implement changes will create political stalemates. Lastly structural impacts will occur when a political system cannot create substantive or procedural changes in the face of opposition and thus "a social movement will try to broaden its demands to include those for altering the existing political system fundamentally (Kitschelt 1986 p 67)."

The table below is Kitschelt's (1986 p68) table of hypotheses that identify how the choice of strategies of social movements does not vary at random, but is in actuality dictated by the interaction with political opportunity structures.

Table 2 *Kitschelt's hypotheses about the relationship between political opportunity structures and the dynamics of social movements.*

		<i>Political input structures</i>	
		Open	Closed
<i>Political output structures</i>	Strong	(1) Assimilative movement strategies dominant (2) Significant procedural gains (3) High substantive policy innovation (4) Few structural pressures	(1) Confrontational movement strategies dominant (2) Few procedural impacts (3) Limited substantive elite reform: low-medium innovation (4) Strong structural pressures
	Weak	(1) Assimilative movement strategies dominant (2) Significant procedural impacts (3) Substantive impacts: tendency towards policy stalemate; medium-low innovation (4) Few structural pressures	(1) Confrontational and assimilative movement strategies (2) Few procedural impacts (3) Few substantive impacts, tendency towards policy stalemate; very low innovation (4) Strong structural pressures

Kitschelt's (1986) framework provides a means to analyze participation in New Zealand throughout the policy process. We can consider what political opportunity structures are allowed for and provided or changed by MMP. However, first we should consider some later refinements made to Kitschelt's work that are also important to our interpretation of MMP.

Many of Kitschelt's later studies (for example Kitschelt 1991) discussed policy efficiency. This was briefly noted in this political opportunity structure analysis when stating that the United States has 'inefficient program implementation' (Kitschelt 1986 p81) and when noting that closed systems would lead to confrontational strategies from social movements. This notion discusses political institutions ability to effectively implement policy and efficiently resolve policy challenges given the cost of opposition to institutions and political parties. Social movement theories identify those situations where a movement is mobilized against a policy, and through this analysis we may endeavor to identify a means of including Māori representation and participation effectively into the policy process to avoid disruption, and thus increase policy efficiency.

Tarrow (1989) suggests some social movements turn their attention to more conventional political activity, reducing their claims and moderating their tactics to effectively institutionalize their dissent. It is important to note the moderating effect mainstream politics can impose. For example, in order to capture mainstream political influence, groups may modify their behavior.

Tilly (1995) discussed how political opportunity structures may channel social movements into less disruptive politics, using the example of more democratic parliaments allowing popular movements to move within institutions through the development of parties and electoral participation. This is furthered by Kriesi *et al* (1995) in their discussion of political opportunity structures, and the relevance for 'new social movements.' Kriesi *et al* stressed that the state can invite action through facilitating access, or alternately can provoke action through the production and implementation of unwanted policies and political threats. Meyer (2004) furthered this point by stating that "more marginalized constituencies, such as those based on ethnic identity, may need to be enabled for mobilization by institutional openings, a point that may have particular relevance in New Zealand.

Gamson and Meyer (1996) also provide a useful insight into the theory of political opportunity structure. They argued there is a distinction between 'stable' aspects of political opportunity, such as traditions and institutions, and those elements of the policy process that are more unstable and therefore more volatile such as public policy, political discourse, and elite alignment. Meyer (2004) similarly discusses differences in activist strategy and effect in public policy, noting that a movement's outcomes can vary and may operate differently in response to the political environment. These may include: "a discrete policy change, changes in levels of appropriation for an established program, policy implementations, running direct candidates for office, creating alternative institutions (p138)."

Meyer and Staggenborg (1996) also identified the ways movements effects can be regulated by political opportunity structures such as: influence policy, alter political alignments, raise the public profile and salience of a particular issue, create frames, demonstrate efficacy of various means of political action, and draw media attention that activates balancing norms in mainstream media (p1634). This speaks to the differing levels of effectiveness that can occur throughout the process of participation and how these cumulatively may determine the overall effectiveness of social movements.

Vrablikova (2014) uses techniques developed by studies into how institutional context affects voter turnout to investigate other non-electoral participation. In this study non-electoral participation provides a wider scope than simply focusing on protests and social movements. This work identifies how political opportunity structures can influence non-electoral participation, noting that decentralization of state institutions enhances non-electoral practices by providing more access points for citizens to influence decision making. Many theorists have also noted that power centralization has a large impact on citizen activism (Tarrow 1996, Kriesi 2004, Kriesi et al 1995, Meyer 2004). These theorists note that decentralization encourages motivation as political actors can use the political opportunity structures to their advantage. This discussion of decentralization of power is furthered by Schneider (2003) who describes decentralization on the levels of fiscal, administrative, and political devolution of power from central government. Furthermore Kriesi et al (2004) noted decentralization as having three dimensions: territorial decentralization, horizontal separation of power among national institutions, and separation of power within these institutions.

Vrablikova (2014) explains how these “power-dispersed systems of governance signal to citizens that they have (a) more options and access points for influencing politics, and individuals have (b) a higher chance of being successful if they decide to participate (p206).” “Whereas centralized states are often decisive and strong enough to implement their own policies, including significant changes (p207)” lowering mobilization as the chances of influencing politics in a decisive way are seen as lower.

The number of political parties is identified as another factor that may increase mobilization, and is described as a reflection of the degree of separation within horizontal institutions (Vrablikova 2014). This supports Kitschelt’s statement, that the “number of political parties, factions, and groups that effectively articulate different demands in electoral politics influences openness (1986 p63).” However Crepaz and Moser (2004) argue that in multiparty systems, coalition governments create interdependence between parties and therefore a shared responsibility in the one system; without veto players, this does not create an open opportunity structure for non-electoral participation.

Finally, as noted, Kitschelt (1986) speaks of political opportunity structures and social movement strategies in terms of input and output structures. There are many conceptualizations of the policy process that attempt to describe how public policy is formed and implemented, these involve different

phases, stages, or flows (Jann and Wegrich 2007). However the policy process perhaps can be better conceptualized as a cyclical and spiral process whereby the implementation (output) phase of previous policies in fact provides input into subsequent policy.

Kitschelt's two phase based approach to understanding strategies aimed at influencing public policy fails to capture the interconnected nature of the policy process, and furthermore fails to cater for the important evaluation phase of public policy. This thesis argues that some actions identified by Kitschelt as output strategies in actuality influence the input/formation of new policies. Often attempts made at the output phase of one policy can not only influence new policies, but may in fact trigger a completely new policy genesis.

The conceptualization of a cyclical policy process over that of a phase based one allows for the feedback between different elements of the policy process. Yet the generic cyclical model is flawed in its requirement for a clear-cut beginning and end of policy (Jann and Wegrich 2007 p44). Policy stages may include agenda setting, problem recognition and issue selection, formation and decision making, implementation, monitoring, evaluation and termination. It should be respected that policies are created in a densely populated environment of already existing policies that may regulate the form of the new policy (Hogwood and Peters 1983). Therefore the policy process conceptualized by this thesis is one that is cyclical in its ability to aggregate feedback, and spiral in that it appreciates that in reality policies are perpetually reviewed, controlled, modified, reformulated, implemented, evaluated, adapted, and sometimes terminated.

Political Opportunity Structures

Kitschelt (1986) noted how the "specific configurations of resources, institutional arrangements and historical precedents" of a nation can be seen as the political opportunity structures available to social movements at the input side, and the 'capacity of political systems to convert demands into public policy' can be seen as output structures (p58). He noted how the channeling, filtering, or blocking effects of these can dictate social movement's strategies directed at influencing policy, and predict their subsequent success. Vrablikova stated that political opportunity structures are "conceptualized mostly as formal and informal features of the state and politics that shape individual incentives for increased activism beyond elections (2014 p205)."

Kitschelt firstly noted that "mobilization depends upon the coercive, normative, remunerative and informational resources (1986 p61)" that a movement can extract from its settings and utilize in protest. This means a movement's ability to appeal to widely shared norms, access information about the policy they object to, and have the resources to disseminate information to collectively oppose a policy will dictate its mobilization. For the case studies these resource opportunities for collective information gathering and dispersing will be investigated by looking at iwi and community organizations,

information flow from government, and service providers. This resource requirement of mobilization does however mean that some of the smaller Māori movements may be hidden by the large mobilized strategies investigated in this thesis.

Secondly Kitschelt talks of institutional opportunity structures, those “patterns of interactions between the government and interest groups, and electoral laws (1986 p61).” These institutional structures “allow for, register, respond to and even shape demands of social movements that are not (yet) accepted political actors (P62).” Kitschelt noted that the already institutionalized structures can facilitate or impede the institutionalization of new groups and claims. Within this study these may include political parties, collective representatives and Māori representatives already within decision making processes.

Gamson and Meyer’s (1996) adaptation to Kitschelt’s definition of political opportunity structures identifies stable and volatile political opportunity structures. Kitschelt noted what he deemed ‘political regimes’ (p62) as those configurations that are not immutable, and are thus volatile, but are slow to react to new policy demands. In this understanding Kitschelt states that these structures dictate policy directions and options independently of the preferences of coalitions, political actors, and societal forces, remaining relatively ‘non-pluralistic’ within the policy formation process. Examples of volatile structures within this study include the media and the government.

Given Gamson and Meyer’s (1996) adaptation to Kitschelt’s definition of political opportunity structures we can see some structures to be stable; traditions, institutions, state structures (federal, unitary), separation of power, cleavages within societies (religious, class, location based, race), constitutions, centralization/decentralization, are the ‘stable’ or ‘institutionalized’ opportunity structures. Whereas those which can be readily influenced and changed include; public policy, political discourse, elite alignment, lobby groups, political/philosophical cycles, political environment (liberal, neo-liberal, conservative) elite decisions/interests (industry, political, united, competition) legislation (licensing, tax) are examples of those structures that are the ‘volatile’ or un-institutionalized opportunity structures.

Within New Zealand’s policy process there are some factors that we will only briefly mention as these are largely stable or are maintained, and take generations to change. For example the historical context of New Zealand’s politics does not change with the introduction of MMP, nor are our understandings of them likely to change for a very long time. At times things that are maintained, however, do play a role within this research, for example the Treaty of Waitangi as a ‘constitutional document’ is a stable factor, yet our understanding of the place of the Treaty within public policy is not stable across the time of the case study, and thus we encounter the interaction of this history in the case studies.

Kitschelt noted that 'system-wide political properties' and 'national policy styles' were important access points to new demands as more institutionalized structures are limited in their ability to aggregate new demands. "Entirely new demands cannot participate effectively in highly differential policy arenas and instead must appeal to actors and institutions in politics, such as parties, parliaments and courts, whose authority and decision procedures at least partially transcend those of particular policy arenas (p63)."

Kitschelt noted that the dominance of specific access points and their openness can dictate the responsiveness of a system to social movements. What this means is that the interplay between the stable institutionalized access points and the more volatile non-institutionalized access points should be investigated.

Given the opportunity structures that can influence openness and strength within the policy process as identified by Kitschelt and depicted in Table 1 above, those political opportunity structures that are related to public policy and thus will be discussed in this thesis are those related to; the ability to aggregate new ideas, for example select committee processes; separation of power, for example between the government and the courts; policy development control, for example the ability for the government to drive policy in spite of parliament. Those opportunity structures closely related to the change of electoral system include; representative diversity and the interaction between the legislature and the executive. This thesis will investigate New Zealand's opportunity structures by looking at the following specific access points; the media, the courts, elite interests, political parties/the multiparty system, de/centralization, select committee processes, international forums, agreements under policies, iwi representatives, ministerial review panels, consultation processes, commissioning agencies.

Applying Kitschelt's Framework to New Zealand Policy under MMP

The following section will apply Kitschelt's theoretical framework to New Zealand, and the expectations of MMP specifically, in order to construct the hypotheses of this research. Lijphart (1999) focused on electoral systems, identifying the key indicators of majoritarian systems as: first-past-the-post election mechanisms that exaggerate a party's political representation, single-party cabinets, strong executives, unicameral legislatures, unitary government structures, a competitive pluralism of interest groups and executive-controlled central banks. Consensus systems are characterized by: proportional representation, multiparty coalition cabinets, a balance of power between executives and legislatures, federalism, interest group corporatism and more independent central banks. One can almost interpret these two systems identified by Lijphart (1999) as two opposites on a continuum, depicting the drastic change from one end of the democratic scale to the other by New Zealand.

As stated above Vrablikova (2014) noted how the number of political parties is an important factor in the mobilization of social movements, and linked this to a reflection of the degree of horizontal

separation of powers as one of Kriesi's *et al* (2004) factors within decentralization. This is an important observation of the expected relevance of the electoral system of MMP and its impact on Māori participation and representation. Easton (1999 p16-21) predicted the changes in policy process under multi party governments as the following;

1. There will be increased parliamentary supervision of policy.
2. There will evolve three classes of legislation: government bills, on which the government's standing depends; department bills, which the government will introduce but also considerable freedom of decision to parliament; and 'conscience' bills, which will not typically be voted along party lines.
3. Policy will usually evolve steadily rather than change quickly as it has done in the recent past.
4. There will be more public consultation before policy initiatives, and the outcome of the deliberation will be less determined by the government. Appointees to committees will more closely reflect the balance of parties in parliament rather than the preferences of the government.
5. The bureaucracy will consciously incorporate an element of the party differences in its policy-making processes.
6. There will be less poor-quality policy; that is, mistaken policies will be more frequently identified and weeded out.
7. Groups which have tended to be excluded from policy process in the past will have a greater influence on policy, especially if they have effective voting power above the five percent threshold.

These predictions obviously hold much promise for Māori influence upon the formation of policies; however, the reality of these predictions needs to be investigated. There are three different things to be noted about Easton's predictions, the first is the way many of these predictions allude to the introduction of new or more variety in opportunity structures, for example point five and seven introducing parties into the policy process. Secondly these predictions allude to moving the existing structures along the continuum towards greater openness, for example points one, two and four. And finally there are predictions on the effect these new and more open structures will have on policy and the policy process, for example numbers three and six.

These predications would suggest that MMP will open the policy process; however, Joseph (2009) comments that "MMP transformed the political landscape but without dislocation to New Zealand's constitutional system (p112)." He noted the way MMP breaks away from the old two party system of FPP and introduces previously marginalized third party representation, however these changes continued within the context of Cabinet Government and the understandings of the Cabinet

Manual. Joseph's (2009) also noted that we elect parliaments not governments and that subsequently political leaders may create novel arrangements in their endeavors to form government.

This commentary discusses the ability for parties to enter into post-election bargaining after elections, to create novel understandings of government. The argument that post-election bargains solidify minority governments, giving them power similar to that of a majority government weakens Easton's argument that the policy process within New Zealand has changed since the introduction of MMP with the increased occurrence of minority governments minimizing the possibility to institute a major policy blitzkrieg (1999). These structures can be seen as a part of the 'volatile' or unstable environmental factors under Gamson and Meyer's (1996) framework.

These discussions may explain the 'political paradox' noted by Sullivan (2009) by identifying that the introduction of MMP as an electoral system needs to be investigated in the context of the broader political opportunity structures. This thesis will investigate the effect the change to MMP has had on the political opportunity structures of New Zealand's public policy process, and those structures that remain unchanged. This will move debate beyond the expectation of MMP's ability to increase proportional representation, and look at other factors that influence participation and the ability for a social movement to influence decision making.

Primary Hypothesis

The primary question of this research is whether MMP opened the policy process to Māori participation and representation as it was expected to. The primary hypothesis of this thesis is founded in the 'political paradox' Sullivan (2009) discusses, of continued inequalities implying minimal changes to Māori representation within decision making under MMP. This is supported by Gutmann's (2003) argument that democratic societies merely maintain the cultural dominance of the majority and Joseph's (2009) observation that New Zealand's electoral reform did not change the fundamental context within which New Zealand's politics is conducted. Without structural change to the wider political system to reflect New Zealand's bi-cultural (and increasingly multicultural) nature, superficial changes to democracy are expected not to alter the fundamental power imbalances in New Zealand's democracy. These power imbalances are hypothesized to be maintained, despite the introduction of MMP, by other political opportunity structures that filter or otherwise subvert Māori participation. Therefore the expected findings of this research are that MMP has not substantially opened the policy process to Māori participation and representation, as it was expected to.

Secondary Hypothesis

As noted in the discussion above, Kitschelt's (1986) theory examined social movements and the political opportunity structures that enabled or inhibited movements from effecting change. However he noted that "it is certainly the case that political opportunity structures vary among policy arenas

within the same regime.” Therefore this thesis is not only questioning whether MMP has opened new opportunity structures across the entirety of New Zealand policy processes, but secondly whether these vary in openness across differing policy fields.

The parameters of MMP limit the choice of policies that may be selected as case studies to those that are post-MMP. By selecting Māori centric policies the actions of Māori communities in attempting to participate in decision making are likely to be more clear and accentuated. Kitschelt’s observation that political opportunity structures influence the choice sets of social movements and their strategies is also important in selecting case studies. This thesis will examine two public policies that are both contemporary and relevant Māori policies to investigate Māori participation and representation in the policy process. The research will track the foreshore and seabed policy through both the 2004 Act and 2011 repeal and replacement Act, and the Whānau Ora policy process.

The policy process is often long and can take decades to turn over. The foreshore and seabed case study provides the thesis with the ability to investigate a policy field that has completed a policy cycle in this time frame and entered into a new policy process, allowing the thesis to investigate the entire policy cycle within the timeframe of this study. Beyond this the foreshore and seabed policy was extremely prominent, and therefore it can be hoped this case study will reveal the interaction between social movements and the political opportunity structures in detail at a variety of points in the policy process. The foreshore and seabed policy will be contrasted with the Whānau Ora policy, which was championed in mainstream public rhetoric as a policy process that included vast flaxroots Māori input. This will provide a comparative analysis between a policy that was conflictual, and a policy that was intended to be cooperative. The two case studies provide an opportunity to investigate the policy process across differing fields, given the public depictions of the case studies we can hypothesize that this thesis will identify differing openness across differing policy fields.

Summary

This chapter has argued that it is important to identify how open the political process is to participation and effective Māori representation under current parliamentary practices to determine whether the change in electoral process lives up to the expectations of MMP. This research will investigate a deeper understanding of participation beyond simply the number of Māori representatives within Parliament, and a more thorough understanding of participation beyond voting behavior. This investigation aims to understand the strategies and influence Māori have in the process of shaping policy.

It is hypothesized that introduction of MMP will have a limited effect on the policy process for Māori. Drawing on Kitschelt it is expected that the underlying structures that remain independent of the introduction of MMP will regulate the impact of the change in the electoral system. The question of

whether MMP has opened the policy process consistently for Māori across fields of policy is important as it allows comparative investigation, identifying what levels of input Māori have within the policy process, based on political opportunity structures, and how these inputs may or may not have influenced the final outcome of policies. It is expected the political structures available to Māori and their openness will differ across fields of policy within Parliament due to differing processes of policy formation for each of these.

Chapter two will now discuss the methods used to identify participants and conduct the research for this thesis. Chapters three and four will discuss the foreshore case study in two halves, firstly the Foreshore and Seabed Act 2004 policy process will be presented, followed by the repeal and replacement with the Marine and Coastal (Takutai Moana) Act 2011. Chapter five will present the findings of the Whānau Ora policy process. Chapter six will provide a discussion of the findings and what they mean in terms of creating a picture of Māori participation and representation as experienced by those attempting to influence public policy.

Subsequently the research will discuss where and how Māori participants believe input into the policy process *should* be for the best policy outcome and how this may be influenced by parliamentary practice. By identifying the best practice for Māori input into the policy process we may be able to identify a more efficient policy process as discussed by Kitschelt (1991). These conclusions will be drawn from the perceptions and perspectives of those interviewed, as Māori involved in differing aspects of the policy process, and supported by supplementary research. These conclusions may also provide lessons for other groups in New Zealand's rapidly diversifying population and for other Westminster democracies embarking on structural and policy reform.

Chapter Two

Methods

The following chapter will discuss both the traditional research imperatives and those associated with researching indigenous ethnic groups. The importance of respecting the values associated with conducting appropriate Māori research is a fundamental guiding point to the methodologies underlying this research. This chapter will conclude with a discussion of the approach taken to the interview process and the range of interview participants.

Ethnic Based Research Theories

Racial biases may be so inbuilt into a society that they may seem 'natural' and go unnoticed (Tolich and Davidson 1999). It is the imperative of any researcher to question their research process and scrutinize it for these errors which may affect the entire outlook of the research. There is a large field of theoretical research based on researching groups, especially ethnic groups that noted how this field has begun to change in recent years. This change stems from growing intolerance among indigenous groups to the negative effects of 'being researched' (Bishop 2010). These changes within research processes stem from historical and traditional racist and hegemonic epistemologies and practices that have been built into research.

Tolich and Davidson (1999) discuss how epistemological assumptions are inbuilt into social research. This is the notion that we implicitly buy into a particular view of the world, often a Eurocentric view. This research bias found around the world also has a large theoretical base in Māori research: "Researchers in New Zealand have developed a tradition of research that has perpetuated colonial values, thereby undervaluing and belittling Māori knowledge (Bishop 2010 p200)." Scheurich and Young (1997) note that it is important to be aware of institutional racism within research; "racially biased beliefs or assumptions may be embedded within a research discipline (p5)," this kind of racism is "endemic to the social sciences (p6)."

Identifying the flaws in prior research practices has led to a change, as part of a "wider struggle towards decolonization, which includes challenging the Pākehā Eurocentric hegemony and reclaiming Māori realities: which is crucial to facilitating positive Māori development (Jones *et al* 2006p2)." Taking control of how research is conducted, and by whom, has become a level of self-determination for Māori and thus it is important to respect this.

Kaupapa Māori Research Theories

Guidelines have emerged as those people traditionally being given the role of 'researched' are now taking control of the role of 'researchers'. Pipi *et al* (2004) noted international support with the production of guidelines and protocols for non-indigenous researchers wanting to do research on

indigenous groups, with a push to more collaborative partnering relationships. This school of thought in New Zealand is referred to as Kaupapa Māori research, which identifies the issues that have historically arisen in Māori based research and argues guidelines as to how Māori research should be conducted to avoid these in the future.

Kaupapa Māori research emerged in the period known as the Māori renaissance: a period of ethnic revitalization for Māori during the 1970s and 1980s catalyzed by a worldwide movement of indigenous people to increase self-determination (Walker *et al* 2006). Kaupapa Māori research is “concerned with how research practice might realize Māori desires for self-determination, while addressing contemporary research issues of authority and legitimacy (Bishop 2010 p198).” It is argued that throughout many years of studies Māori knowledge and culture has been continuously simplified, misrepresented and undervalued. Due to this history, Kaupapa Māori research methodologies have built in mechanisms to protect Māori knowledge and culture from the burden of biased research (Bishop 2010, Walker *et al* 2006, Smith 2012). “Historically, Pākehā researchers have failed to recognize the existence of cultural differences, and assumed that the Pākehā way of doing things is a universal norm (Jones *et al* 2006).” Kaupapa Māori research theories have developed to shake the burden of the ‘colonising gaze’ that once ruled the field of indigenous research (Hooks 1992, Mahuika 2008).

As Te Awēkotuku states, “research is the gathering of knowledge – more usually, not for its own sake, but for its use within a variety of applications. It is about control, resource allocation, information and equity. It is about power (1991, p13).” Mahuika (2008) deduces from this statement that research serves as a tool for disempowering minority interests by maintaining the status quo: “Māori, like other indigenous peoples, have had first-hand experiences of such disempowerment through researchers who have taken Māori knowledge and claimed it as their own, presuming to set themselves up as authorities on our culture yet discussing our lives and experiences in ways that are alien to our understanding (p2).” Kaupapa Māori research challenges the existing epistemologies within the field of knowledge and introduces a new relationship between subject and researcher. “Kaupapa Māori research is collectivistic and is orientated towards benefiting all the research participants and their collectively determined agendas, defining and acknowledging Māori aspirations for research, while developing and implementing Māori theoretical and methodological preferences and practices for research (Bishop 2010 p 201).”

Kaupapa Māori research has been defined as research by Māori, for Māori and with Māori (Walker *et al* 2006). As I am not of Māori descent the imperative of upholding Kaupapa Māori research falls on the ‘for Māori’ and ‘with Māori’ aspects of this definition. Initially Kaupapa Māori theories pushed for an end to Pākehā researching Māori as a reaction to a historical colonial oppression within indigenous research (Bishop 2010). However theorists now argue this can be avoided so long as Pākehā

researchers respect the values of Kaupapa Māori research whereby Māori maintain conceptual, methodological, and interpretive control over research (Smith 1999, Smith 2012, Mahuika 2008): “Kaupapa Māori is a philosophy that guides Māori research and ensures that Māori protocol will be followed during research processes (Walker *et al* 2006 p333).” By following the protocols of Kaupapa Māori theory this research will seek to benefit Te Ao Māori, while promoting cultural safety for both Māori and myself as a Pākehā researcher.

Kaupapa Māori methodological and ethical considerations are a necessary hurdle to researching Māori given the colonizing history of research; however, it is also one that must be discussed. Some traditionalists/tribalists still maintain that Pākehā should not research Māori what so ever, this belief puts any Pākehā research under greater scrutiny (as discussed by Smith 1999). I believe this approach was justified during the 1970s and worked for the benefit of Māori; however, I must briefly mention the negative consequences of strictly maintaining this approach.

Tolich (2002) writes of the “Pākehā paralysis” where Pākehā researchers choose not to include any Māori in their research of the general population, he noted from his experience as chair of a university ethics committee that; “as Pākehā they had learned they had no place researching Māori, at no time had they been taught how to consider cross-cultural research (p165).” However, if all Pākehā researchers exclude Māori from their research, even if this research is not culturally sensitive such as general population data, not only does the research miss a large community, but Māori also become completely excluded from the progressions such research may provide. Tolich (2002) comments that this paralysis stems from an institutional dilemma; that through teaching and promoting this sentiment university lecturers and institutional committees may be promoting research that “violates the Treaty of Waitangi” as not only does it violate the responsibilities of promoting partnership, but it also removes Māori from the right to equally benefit from a fair share of what is often state-funded research (p167).

The key importance of this thesis therefore is to conduct this research under the guidelines of Kaupapa Māori research theories, to ensure this research adds value to Te Ao Māori and supports Māori development within New Zealand. Without following these guidelines this research may not achieve the desired results of making a meaningful difference, and may in fact have a detrimental effect. One of the first imperatives of Kaupapa Māori theory is that of “the centrality of ‘te reo Māori me ōna tīkanga’- Māori language and philosophies (Pipi *et al* 2004 p143),” as this promotes cultural preservation and language revitalization stemming from the Māori renaissance. “The reality is that many Māori researchers are not fluent in te reo, and many Māori participants have only basic working knowledge of the language. Hence, a mix of English and Māori may be used, but Kaupapa Māori research aims to encourage the revitalization of te reo (Walket *et al* 2006 p 334).” Here I am benefitted by having

dedicated many years to learning te reo Māori throughout secondary school, tertiary, and through full immersion courses, and have an extensive knowledge of tikanga Māori despite being of Pākehā decent.

Smith (1996) highlights the importance of the survival and revival of te reo Māori and culture with the legitimacy and validity of being Māori, and the centrality of self-determination to Māori cultural wellbeing. The maintenance of indigenous language as an indicator of cultural survival is strongly supported internationally, and was a key foundation of the Māori renaissance in the 1970s. Building on these fundamentals many other underlying principles guide Māori research. Pipi *et al* (2004) summarizes the core values of Kaupapa Māori theory as the “creation of spaces for Māori realities within wider society (p144).” L Smith (1999 p120) identifies seven practices that should guide Māori research.

- Aroha ki te tangata (a respect for people)
- Kanohi kitea (the seen face; that is, present yourself face to face)
- Titiro, whakarongo... kōrero (look, listen...speak)
- Manaaki ki te tangata (share and host people, be generous)
- Kia tupato (be cautious)
- Kaua e takahia te mana o te tangata (do not trample over the mana of the people)
- Kaua e mahaki (do not flaunt your knowledge)

“The seven Kaupapa Māori practices are essentially a code of conduct that can guide our research, ensuring that we are on the right track to meeting our responsibilities (Pipi *et al* 2004 p 151).” These guidelines emphasize the underlying cultural practices that are linchpins to many Māori interactions; promoting cooperative research conducted through listening and learning with respect and humbleness. Because these guidelines were created for Māori researching Māori, they need to be further emphasized and respected by Pākehā researchers and accompanied by a greater level of consultation. Regardless of the researchers ethnicity the imperative underlying all Māori research is that it should be conducted to further Te Ao Māori and to lift the mana of Te Ao Māori. “Kaupapa Māori challenges accepted norms and assumptions relating to the construction of knowledge and instead searches for understanding within a Māori world view (Jones *et al* 2006 p3).” It is critical that we challenge Pākehā hegemony within research, reemphasizing Māori realities and facilitate positive Māori development (Pihama *et al* 2002).

Smith (2012) states that “when undertaking research, either across cultures or within a minority culture, it is critical that researchers recognize the power dynamic that is embedded with their subjects (p178).” What should be emphasized in conducting Māori research is that of equal status, or even further flipped, from the traditional view between researcher and researched. Here an environment of partnership and cooperative work is cultivated, allowing the research to be led by the participants. This is very important to understand that Māori retain control and ownership over their knowledge and how

one as a researcher uses that knowledge. Smith (2012) presents four ways Pākehā may be more culturally sensitive in conducting Māori research:

- The strategy of avoidance, whereby the researcher avoids dealing with the issues or with Māori.
- The strategy of ‘personal development’ whereby the researchers prepare themselves by learning Māori language, attending hui and becoming more knowledgeable about Māori concerns
- The strategy of consultation with Māori, where efforts are made to seek support and consent
- The strategy of ‘making space’ where research organizations have recognized and attempted to bring more Māori researchers and ‘voices’ into their organization. (p179)

As noted above for the purposes of this thesis the first strategy is not fitting for what this research aims to achieve through investigating the change to MMP. Avoiding addressing Māori issues or dealing with Māori when investigating representation would result in a thesis that goes against all the values of Kaupapa Māori; it would result in a piece of research that contained hollow figures that fail to capture Māori realities, opinions and voices, and would not provide any benefit to Te Ao Māori. The last of Smith’s strategies is also impractical for a single person’s thesis. However the second and third of Smith’s (2012) strategies are two which are implemented within the process of this thesis.

It is through these two strategies that this research navigates Kaupapa Māori research theories and imperatives in an attempt to conduct research which will be valuable to further Te Ao Māori. As Tolich concludes in his discussion of Pākehā paralysis; “Cultural sensitivity provides a home-grown remedy to this problem, facilitating Pākehā to study Māori and to endorse the Treaty of Waitangi. For this to occur the dominant Māori-centered research paradigm needs to recognize this Pākehā problem so that Pākehā can establish their boundaries and *be given a space to rest their feet*. (2002, p177).” I see this as my tūrangawaewae- a place to stand- within Māori research.

Kaupapa Māori theory emphasizes that Māori research should be made to benefit Māori, this research aims to achieve this through opening a dialogue and furthering our understanding of Māori participation and representation as experienced by Māori. This research will be returned to those who participated in both its full form and a report, along with being presented at the University of Canterbury Māori Research Colloquium, the Canterbury evening of New Zealand Federation of Graduate Women’s, and reported to the New Zealand Business and Parliament Trust for distribution within their membership (which includes many New Zealand MPs). This research may also be turned into published articles in the future. The benefit to Te Ao Māori of this is that this research can be used to begin discussions or in support of movements towards investigations into policy processes that may yield better policy processes for Māori input.

Methodological Approach

The methodological approach of this study is strongly guided by Kaupapa Māori theory but is also in line with traditional approaches to case studies. Tolich and Davidson (2003) discuss the appropriate methodologies for Māori research, and Māori theoretical context pointing to the core values of Māori culture and the imperatives of consultation and accountability. In line with the research above, the first step in the process of this research has been consultation/co-production, this process not only ethically ensures the research is culturally safe, but it also works to ensure the research is of value to Te Ao Māori. This is one of the most important questions to ask of one's research: is it going to advance the field in a necessary and useful way? This process of consultation is not simply conducted by telling others what you are going to research, but requires presenting one's topic in the early stages and allowing the development of the topic to be Māori led. This requires the researcher to relinquish control of their work to those it should belong to, the Māori community.

In the beginning stages the researcher must be open to guidance and as Smith (1999, 2012) stated; must listen, be cautious and not flaunt knowledge. Although this approach to developing a research topic may seem humbling to some who would rather control the research fully, this process is crucial to uphold Kaupapa Māori values and is a valuable means of gaining cultural assurance and a base level of support. I found that through this process of consultation and the greater ethics and MRAG process I became clearer about this research topic and surer of its value, by gaining confidence from this process and through the support and reassurance of my cultural guidance panel.

My cultural guidance panel was headed by Lindsey Te Ata o Tu MacDonald, as deputized by Darryn Russel, as a representative for Tuahiwi. Lindsey was supported by Ripeka Tamanui-Hurunui, and Abby Suszko, all University of Canterbury Staff, who provided consultation over the initial formation of the research topic. However throughout the process of my research I also was guided by the assistance of many external Māori academics and community leaders; and ultimately, as happens when one correctly follows Kaupapa Māori theory and allows the research to be led by the participants, many of the people I interviewed proved to become repeat consultants; involved out of their interest in the subject, becoming a sounding board for findings. I found myself often being provided sources of information or new prospective interview participants by those I had already interviewed. This investment of time from the people involved showed that the research topic was one that was important to them and stayed within their consciousness. It was through their guidance and commitment to the research that some of the most enriching information or informants were brought to my attention and I accredit the strength of this research to their involvement.

Given this research process and the level of community involvement, this thesis was not short on information to analyze. This research has utilized a theoretical framework of social movements that

may seem relatively Pākehā; however, this framework simply provides the social sciences backbone upon which the participant's information is applied. As a duty to the Kaupapa Māori theory by allowing this research to be guided by those involved, and to do justice to the information so freely and abundantly given to me, I have included any findings that lay outside of the social movement framework in the conclusion. This section is titled 'themes from participants,' as although they may not be central to the research question guiding this research, the findings are still extremely important and necessary to include within this thesis as a community document.

As previously stated there are many ways one could research representation and participation post MMP, this could involve investigation into voter turnout, government archives, crown perspectives and so on. However given the focus of this research is Māori representation and participation in particular, the research approach of interviews supplemented by secondary sources can be justified by Kaupapa Māori theory. This study needed to gain perspectives of what Māori within the policy process believe their realities are, which requires a qualitative analysis over a quantitative investigation.

This decision can be further supported by traditional methodological theorists that compare qualitative and quantitative approaches. Tolich and Davidson provide such a comparison (1999 p26) within which the assumptions, purpose, approach and researcher's roles are analyzed. Here it is identified that the qualitative approach allows an insider's point of view, with the purpose of contextual interpretation and understanding of the actor's perspectives as approached from another's point of view, with the researcher's role one of empathetic understanding. Furthermore Gillham (2000 p11) provides six things that a qualitative approach allows the researcher to do;

- To carry out an investigation where other methods- such as experiments- are either not practicable or not ethically justifiable.
- To investigate situations where little is known about what is there or what is going on. more formal research may come later.
- To explore complexities that are beyond the scope of more 'controlled' approaches.
- To 'get under the skin' of a group or organization to find out what really happens- the informal reality which can only be perceived from the inside.
- To view the case from the inside out: to see it from the perspective of those involved.
- To carry out research into the process leading to results rather than into the 'significance' of the results themselves.

We can see that these imperatives closely align with those of Kaupapa Māori. Allowing Māori voices to be heard as to their experiences and perceptions of representation and participation within the two case studies.

Given this research involves human participation a full ethics process was navigated to gain approval to conduct this research. Ethics regulations and guidelines are in place to protect the subjects

of research; however, as Tolich (2001) states further consideration must be made when conducting research within small communities to protect the subjects, which is especially important within Māori communities. With such a small pool of participants for this research topic, not only must the identity of those wishing to be anonymous be protected from discovery, but the information presented must be done so with the sensitivity of knowing this community is tight knit.

In following with the values of Kaupapa Māori research the decision to conduct interviews in the form of unstructured interviews is important. This allows the participant to lead the discussion and inform the research in a way they deem useful to the topic, whilst maintaining Māori control over the research by accentuating the necessity to whakarongo. I made known the offer to travel to participants and conduct the interview in a setting they felt comfortable in; this *kanohi ki te kanohi* approach is important in developing a relationship with the participants and forming an environment of open *kōrero*.

The way the interviews are conducted is important not only under Kaupapa Māori theory but also under traditional theoretical approaches to unstructured interviews. Opie (2003) noted the importance of waiting, not rushing the next question, and picking up on inflections and non-verbal cues. As Opie (2003) noted (2003) “the researcher *guides* the respondent into particular areas, but what path is actually followed is usually decided by the person doing the talking (p240).” This theoretical foundation is “based on the researcher admitting his or her own ignorance of a subject, and seeing the informant as the expert (Tolich and Davidson 1999 p 17).” Here we must suspend initial hypotheses and enter the research site willing to learn how and why the informant thinks as they do. Again this research methodology supports the need to include the additional findings that emerged during the interview process.

Qualitative research design requires quality interviews that facilitate the respondents’ descriptions of their experiences. Being sensitive to the participant and recognizing their boundaries and comfort levels is especially important. “Unlike some common conventional research methods, fieldwork does not seek detachment between the researcher and those being researched (Tolich and Davidson 1999p 14.)” This research methodology rather requires active involvement and facilitating relationships to learn the ‘insider’s perspective.’

It was noted that in the spectrum of interviews conducted, phone interviews proved more difficult to develop a rapport, and although skype provided the illusion of face to face, it was at the mercy of people’s internet connections which sometimes broke the flow of the conversation. Of the 29 interviews conducted, only two were solely conducted by phone, and three by skype, all other interviews at least involved a face to face meeting to develop a relationship but may have included follow up phone/skype discussions where feedback on later findings was required. This open, faced to

face, kōrero nature of the interview was important to this research process, however it did increase the time and personal cost required for each interview.

Teariki (1992p 108) provides an interview guide for unstructured interviews that lists three key requirements heading into interviews.

1. Introduction questions to start the informant talking.
2. A list of recurrent themes that represent the projects research interests.
3. A set of generic prompts (such as 'how?' 'tell me more').

By being prepared for an unstructured interview the researcher will ensure the most valuable information is gained from the interview and will prevent the subject from feeling their time was wasted. As Teariki states "The most ingenious sample design, skilled interviewing, and sophisticated analytical techniques cannot redeem research that asked the wrong questions or asked them poorly (2002 p109)." A further way of ensuring information is not lost during interviews is to record the interview yet always assume the recorder is malfunctioning. Internal validity, as will be discussed below, was strengthened through careful planning of the interview questions and process in order to gather the best information possible.

In keeping with Teariki's (2002) descriptions of a good interview process I recorded the official interviews and provided the participant with a transcript to review, this allowed the participants the ability to ensure they did not say something sensitive as the conversation carried them away; however, I found these transcripts were more often used by participants to double check dates or specific details they were unsure of at the time of the interview. A prompt turnaround of the next day was strived towards (with the exception of the Waitangi backlog) in order to ensure the conversation was fresh in the participants mind to give context to their words. I made sure I took thorough notes after any off the record/ informal discussions to ensure the themes identified in those discussions were noted.

What I found most important to gaining valuable insights from interviews was to ensure a proper introduction was given before the interview began, that way the participant firstly felt comfortable with a Pākehā researcher and understood my background and tūrangawaewae in this research. This introduction meant that the participant understood what the purpose of the interview was and thus when posed with the first open question they would most often provide answers to the subsequent questions on their own with very little prompting. This was done as best as possible to provide enough supporting information to participants, whilst being careful not to prime the participants to provide answers that may skew the research. Information of the scope of the research was often required as many people were humble in thinking their point of view was not necessary, and discussion was needed to explain that what was being asked of the participants was their personal experiences and perceptions.

I have attached my unstructured interview prompts as Appendix B, however what most often occurred was that the participant would begin talking of their experiences after the first question and this discussion could go on for the majority of the interview. As is in line with Kaupapa Māori theory, my role was to actively listen, I would provide guiding prompts to maintain the direction of the conversation; however, the participant ultimately remained in control of what they chose to say.

The process of approaching participants for this research was one that required great care and thought. As many iwi are structured with a hierarchy it was important to follow the appropriate protocol in who to approach. I made the decision to approach iwi with a top-down approach, beginning with the upper levels before approaching workers, academics, informants or grass-roots iwi members. This decision was made with the understanding that New Zealand's Māori community is tight knit; I did not want someone to hear of others participating in this research feeling they should have been given the opportunity first. The reality however is that many of the upper level iwi members are busy people, and it was not until a second party provided an introduction (often this came from other interview subjects) that they became interested or aware of the research. So despite the offer being extended top-down, what often resulted was a bottom-up flow of participants.

In the process of sourcing participants for this research I extended an open offer to all iwi, for this I used the list of recognized iwi provided by TPK. I also extended the offer to those iwi groups not recognized by TPK but identified as having placed claims under the Foreshore and Seabed Act, RMA or TOW. Furthermore I extended an offer to participate to many of Māori trust groups developed out of capital from iwi groups or settlement claims that participated in Foreshore and Seabed and Whānau Ora. This very open invitation reached some 240 iwi, trusts and Māori organizations, and although the 'on the record' uptake from this open invitation was low what can be theorized is that the majority of those who would have had an interest in the research would have been reached through this process as the community is very tight knit. I understand there is an element of faith in the community to identify those people who may be interested, but this faith was reinforced through the correspondence and dialogue with these groups that developed as a result.

In tandem with this iwi based approach I personally approached many theorists, academics, politicians, lawyers and activists as important informants to this research through their prolific involvement in the policies. Throughout the entire process participants themselves would also identify people they believed would be interested in participating, or were important to the process of these case studies.

One further enriching research process that I conducted was to attend the 175th anniversary at Waitangi over Waitangi Day. For this I traveled to Waitangi and stayed on site with the E Tu Whānau team, and visited the Bream Bay Trust, an organization that conducts much of its activity with funding

provided under the Whānau Ora initiative. I traveled as a participant and an observer, that year at Waitangi there was a forum of people working under Whānau Ora and the Stat Oil protest forum, which raised many Foreshore and Seabed policy issues as 2014 marked ten years since the passage of the 2004 bill. During my three day stay on site at Waitangi I conducted some official interviews along with participating in countless off the record discussions with people from all levels of iwi and policy.

A limitation I faced in beginning this research was that I had no pre-established networks to access participants. Gaining access to the appropriate people was difficult at times and without the assistance of my participants passing my details on to people and growing the reach of this research, I would have had difficulty gaining as rich a pool of information as I did. I was fortunate enough to have these participants facilitate the more grass roots interviews that are more complex and challenging to source.

I am aware the access I gained through the process of attending Waitangi and other connections made through nurturing and developing relationships with people in these case studies provides a limitation to the validity of someone attempting to recreate this study. However in my experience the themes identified in the participant's experiences and perceptions were quick to show through in interviews. Although I undeniably got an enriched pool of subjects at Waitangi, many of the participants were those I had already identified as important informants. In attempting this research other researcher's own networks may yield a different, yet equally rich pool of informants. It must also be noted that the setting and environment of the Waitangi grounds may in itself have altered the information I gained at this time, and I was weary of this so I was sure to cross check any findings from this time with other participants from different backgrounds and settings.

Below is a table depicting the spread of participants and their fields of experience. This table only records those 'on the record' participants who I had a formal interview with. It does not reflect the many people I held informal discussions with, these kōrero were held with many Māori at the grass roots level, some various Whānau Ora/Kaupapa Māori service providers, visiting and resident academics that I have spoken with on campus, and some kaumātua and iwi Māori. It is hard to estimate the number of off the record discussions I have held with people in passing over the fifteen months of conducting this research.

The size of the political community within New Zealand is small and thus I have kept the fields of expertise rather broad to protect my participant's anonymity. Therefore these categories require some interpretation for example; Iwi may cover iwi leaders, iwi representatives, iwi trusts, people working for iwi, or other iwi affiliations. I have however made note of the specific expertise relevant to quotes when necessary to show their mandate for making such a claim.

Table 3 *Participant expertise and roles/responsibilities in the policy process.*

Participant	Iwi	Policy Development/ Public Consultants	Academics	Public Servants	Administration/ Service Providers	Politicians and Party Activists	Judiciary	Community Advocacy
1	X	X	X					
2		X		X	X			
3		X		X				
4	X	X				X		
5	X	X		X	X			
6		X			X			
7		X			X			
8	X	X		X		X		
9	X						X	
10			X					X
11								X
12	X			X				X
13	X	X	X	X				
14				X				
15		X	X					
16		X		X		X		
17	X							X
18	X							
19		X	X		X			X
20	X	X		X			X	
21		X			X			X
22	X		X		X			
23	X	X	X					X
24		X		X		X		
25				X		X	X	
26	X	X					X	
27		X	X	X				
28	X							X
29								X

Given this table I believe the spread of my interview participants provided a broad insight into the different levels of Māori participating in these policies, ranging from iwi leaders, politicians, policy workers and analysts, service providers, protest activists, intellectuals, and grass-roots public interacting with the policies at an everyday level. Within this spread of participants we see that nearly all have participated across a few fields; this is rather common as people's careers grow and develop, or they participate at many levels to increase their influence. This also depicts the fact that many Māori have to work in many fields due to the limited people and resources available in New Zealand's political community.

Furthermore the decision to conduct this research as a case study rather than to investigate Māori participation and representation in all policy areas post MMP must be discussed. Firstly time and resources limitations allocated to a Masters degree mean the study would have to be limited in scope. For this research the use of two prominent comparative case studies allows a more thorough investigation than could be achieved across the large scope of policies since MMP has been implemented. As Plew (2010) argued, case studies provide the advantages of being 'strong in reality' and 'recognize the complexity and embeddedness of social truths' and being 'rich in description'. The nature of case studies allows a more human (person-centered) focus of the study which is in keeping with the imperatives of Kaupapa Māori theory. However given the anecdotal nature of this very human centered research, Knight (2002) does warn that case studies can be deterministic and over generalized, so it is important to understand the limits to what can be claimed as a result of case studies rather than larger scale studies.

Yin (2009) argued case studies are limited in their external validity, based on Bassey's (1999) claim that they provide 'fuzzy propositions for generalizations' this means these qualitative measures can make claims such as 'it is possible, or likely, or unlikely that what was found in the singularity will be found in the similar situations elsewhere (p12).' Therefore the results concluded of these two case studies may only provide likely insights into what occurs in other policy fields, not definite answers. It is also important to understand that findings from the experiences of New Zealand Māori are not definite predictions of other group/indigenous relations. In particular Pākehā dominance should be considered when discussion power relations of other social movements.

Reliability is a question of whether a repeat study following the same process would achieve the same results (Tolich and Davidson 2011 p 70). Reliability may be increased by ensuring the research process is carefully recorded and followed as described, that way subsequent researchers may follow this process easily (Yin 2009). Second, the interview prompts have been attached under Appendix B. Every attempt has been made to maintain the interview processes discussed above across all participants. However as the interviews conducted were unstructured following the Kaupapa Māori theory processes, the discussion nature of these interviews allows for difference between interviews depending how the conversation flows. Third, interviews are subject to participant availability at the time of this research, and although it has been an imperative to attempt to interview all appropriate sources this is not always a possibility. Therefore another person attempting this study may gain access to different informants and gain different perspectives. Supplementary sources have been used in attempt to minimize this potential difference.

Finally triangulation is an important technique used to strengthen qualitative research findings, this involves rechecking findings with participants and other sources. The use of multiple informants

within the same case study, and the process of sending transcriptions back to the participant for review will provide a stronger analysis. At times subsequent interviews raised questions relevant to previous participants and, as stated above, I would return to them and ask further questions. Towards the end of the research I returned to a few participants and discussed some of the key finding with them as a process of testing the conclusions. This was only possible due to the creation of interest and shared investment in the research nurtured by developing relationships with participants, a benefit of the Kaupapa Māori approach.

Summary

This chapter has shown justifications for the choice of method for researching this thesis founded in both traditional and indigenous research methodological theories. By basing this research on the discussion of those Māori participating in the policy process this thesis is able to apply Māori perceptions and experiences to create a picture of the reality of the policy process for Māori representation. This thesis endeavors to balance the requirement of a theoretical framework, that in this case is substantially European, and the equally important requirement to remain controlled by, and belonging to, Te Ao Māori. Both the theoretic framework and the participant's information will be utilized to further the understanding of New Zealand's policy process and Māori participation and representation.

The following three chapters will integrate the primary and secondary research to develop an analysis of the case studies. This will provide an outline of Māori movements in the policy process from genesis, through formation, implementation, and finally to evaluation. Utilizing the theoretical foundations of Kitschelt's (1986) work along with that of subsequent social movement theories, these chapters will identify the political opportunity structures in policy politics as identified in chapter one. The necessary and useful social science framework of this thesis will be applied to the information given to me by participants, and represented to the degree this information and analysis fits together; however, as a duty to my participants and the Kaupapa Māori foundations of this research, the equally important findings of this research that lay outside this framework will also be presented.

Chapter Three

Foreshore and Seabed Act 2004

As discussed earlier in chapter one a policy cycle does not have a clear beginning and end, nor does it occur in a vacuum. Similarly a social movement's strategies and influence do not occur in a vacuum. New Zealand's foreshore and seabed policies have developed over many years as the political environment changes and policies are reformed, adapted and introduced.

The progression of this chapter follows a narrative which reflects the way Māori movements change strategies as points of access open, close, or run their course over the progression of this policy cycle. There are many examples within this chapter where a policy change can alter the opportunity structures or introduce or eliminate points of access. However, at times strategies or points of access are utilized in conjunction with each other and overlap, as Māori movements implement many strategies through multiple points of access. This thesis will investigate when mobilization occurs, large strategies are implemented, and identifiable influence occurs, but it is important to understand the Māori community is not one uniform collective and there are many examples of communities, iwi, and hapū pursuing strategies that were not large in scale and are not recorded.

The case study of the contemporary foreshore and seabed policy process spans many years and thus this thesis will follow this policy progression across two chapters. This chapter will address the policy cycle of the Foreshore and Seabed Act, and chapter four will study the Marine and Coastal Area (Takutai Moana) Act 2011 policy process. This chapter will discuss the mobilization of Māori movements on foreshore issues and how these interact with the political opportunity structures of post MMP New Zealand. Analysis of strategies and points of access utilized by Māori movements in their attempts to influence this policy process this will illuminate the openness of this policy field and the associated political opportunity structures.

Weakening Implementation; Foreshore and Seabed Policy Genesis

The genesis moment of the Government need to form a policy on the foreshore and seabed can be seen as the decision to legislate around, rather than contest, the Court of Appeal's 2003 decision (Ngāti Apa V Attorney General 2003). This moment is signified by the Labour-led Coalition Government announcement of plans to legislate to reassert Crown ownership of the foreshore and seabed, and to remove jurisdiction of the Māori Land Court in these areas (PANZ June 23, 2003). However the history leading to this moment provides an important insight into the political opportunity structures of New Zealand and points of access for Māori participation and representation. This section will identify how the actions leading to the genesis moment are not simply isolated output strategies aimed at the old policy, but that these also are important input strategies into the new policy.

Within New Zealand Pākehā politics there was often an underlying assumption held by the majority of the population that the lands and waters of the marine coastal areas belonged to the Crown and are therefore publicly owned. The Ninety Mile Beach case appeal in 1963 set this belief in stone; however, this ruling has been disputed for many years by iwi along the affected coastline. Based on the assumption of Crown ownership of coastal land the Marine Farming Act 1971 and Resource Management Act 1991 (RMA) had given mandate to government departments and Regional Councils to distribute rights to marine farming and other coastal proposals. Participant nine asserted that it is important to note that Māori were not wholly against marine aquaculture, and sometimes participated themselves; however, often these proposals encroached on tribal lands and activities. Māori attempted to oppose marine farming in localities that were culturally significant under the notion of kaitiakitanga. As one interview subject involved relayed “we were trying to walk a fine line between economic developments through marine development, without losing sight of our cultural priorities for traditional fishing grounds etc. that could be adversely effected (Participant 9).”

The development of legislation over the decades argues a trend towards increased decentralization which is seen as a weakening factor of output structures. The Marine Farming Act (1971) was administered centrally by the Ministry of Agriculture and Fisheries (MAF). This legislation enabled the allocation of permits to gazetted areas for marine farming on a first-come first served basis. The 1971 Act had no regard, and made no allowances, for protection of traditional fisheries, access to traditional fishing resources and customary uses of the coastal and marine areas. In 1991 the RMA was introduced which transferred the jurisdiction to Regional and District Councils from the Government agencies that previously issued permits and licenses. The RMA decentralized the responsibility of administration and monitoring from MAF to the regional councils. The RMA also brought with it considerations of the Treaty of Waitangi and its principles with recognition of mana whenua status for Māori, establishing the Environment Court to adjudicate this process for iwi to lodge submissions in support or objection to the applications.

Under the Marine Farming Act 1971 there was no consideration of iwi Māori traditional values and cultural activities. Some iwi as a collective chose not to participate within this policy and not to apply for permits ‘as doing so could be seen as tacit acceptance of the legislation by iwi (Mitchell and Mitchell 2006 p26).’ With no ability to oppose those applications that were lodged under the 1971 Act this implementation process could be seen as both closed and strong. Despite Māori opposition the completely closed system can be seen to stifle mobilization as the perceived ability to achieve any success within this was low.

The introduction of the RMA therefore can be seen to provide more access points for Māori through the introduction of the Environment Court and, the perceived benefits of decentralization.

These factors are seen by Kitschelt and other social movement theorists as factors that encourage mobilization by signaling to movements that they have potential to participate and make a change. As power was distributed to local councils the opportunity structures of this policy implementation weakened and opened new points of access for Māori movements. These new opportunities of litigation and opposition to applications came as a result of the decentralization of responsibility for overseeing the implementation of this policy. However the social movement did not stop at the point of licensing and thus we may theorize that these opportunity structures, though available and at least marginally open, contained barriers that closed them off to allowing Māori participation to have substantial effect, as will be discussed below.

The introduction of the RMA and the decentralization that occurred became a turning point for Māori movements and they began a strategy of participating within licensing. This newly opened structure produced the ability for Māori to slow the implementation of the policy through continued opposition however the overall impact of this was limited. A participant who was engaging within this strategy noted how these new access points did not have the desired effect for their local iwi in the Marlborough region stating that “you win some you lose some, but given the chances, you don’t expect to lose 100% of the time (Participant 9).” Another participant (18), an iwi leader, called the licensing processes outright ‘racist.’ This notion was also recorded in Mitchell and Mitchell (2006 p36) where in the mid -1990s “each of the iwi in the region began to feel they had little chance of success in their attempts to use the due processes available under the Resource Management Act.”

The regional application certain localities, in particular the Marlborough region, did not achieve a more open point of access for Māori participation in the implementation of the marine policy and the perceived closed nature of the regional councils licensing procedure saw Māori in this region look for alternate means of interacting with this policy. The iwi within the Marlborough region mobilized and adopted collective representation as Te Runanganui o Te Tau Ihu o Te Waka a Maui to dispute marine farming allocations, and a belief that the Marlborough Regional Council was providing ‘discriminative decision-making’ (Mitchell and Mitchell 2006 p36).

Te Runanganui o Te Tau Ihu o Te Waka a Maui took their claim to Te Ohu Kai Moana (TOKM), the Treaty of Waitangi Fisheries Commission. This movement was supported by a groundswell of other iwi and hapū representatives who also had issues with their regional council’s administration of the RMA. As a result TOKM applied its Customary Fisheries Committee to investigate these claims, including in a national Hui-a-iwi at Pipitea Marae with more than 200 delegates attending, representing almost every New Zealand tribe. Strong iwi Māori support for the claim resulted in TOKM providing financial and legal support for an investigation into the Marlborough situation.

With the financial support of TOKM the local Marlborough iwi proceeded in a two pronged approach with an application to the Māori Land Court regarding the status of the coastal marine area of Marlborough, and the decision to contest *all* subsequent Resource Consents to the Environment Court (Mitchell and Mitchell 2006). This point sees the strategy to interact with the licensing structure turn from one of general assimilative participation to a strategy described by a participant involved as “aimed at actively slowing and disrupting every case to pass through the regional council (Participant 9).”

The barriers that were preventing Māori representation at the local level saw the development of the national litigation strategy. These strategies saw a similar occurrence as Kitschelt recognized in weak, decentralized nations, as “the courts became a central battlefield in the controversy (1986 p71).” This led to a long dispute between Māori and the Crown. The Māori Land Court found that the coastal marine area could be deemed ‘land’ under Te Ture Whenua Act 1993 and therefore the court had jurisdiction to hear applications regarding customary title (Ngāti Apa v Attorney-General 2003). This ruling enabled Te Tau Ihu to argue their claim through a long appeals process between iwi and the Crown over the next six years culminating in the Court of Appeal. The Court of Appeal 2003 stated that the Māori Land Court had the jurisdiction to determine whether the foreshore and seabed was Māori customary land under Te Ture Whenua Act 1993. The decision was argued by some to be a significant and revolutionary ruling for Māori in that it signaled changing epistemologies in New Zealand (Hui-a-Tau 2004), whereas other legal theorists argue that it was not significant in that it was simply an articulation or application of the law.

One underlying tension that must be noted is that of the power balance between the Courts and the Government in New Zealand. There has always been the understanding that the Waitangi Tribunal is not binding on government and its rulings are simply advisory. This case further tests the notion of judiciary independence and authority as identified by Kitschelt (1986) as a measure of output strength. Judiciary independence is raised as a weakening output factor by Kitschelt and it can be seen that Māori have utilized the courts as a point of access to oppose the output of the RMA.

However, the argument of the separation of powers within New Zealand is minimized by the fact that if the Executive disagrees with a court ruling it has the capacity, through Parliament, to legislate around it. This case is a prime example of this tension as exemplified by the Prime Minister’s comments on the Court of Appeals authority that can be paraphrased as ‘decisions on such things are the preserves of Government policy and not the courts.’ ‘The Government will legislate, if necessary, to preserve the status quo (*New Zealand Herald* 2003).’ In legislating around a court decision one can argue the status quo that was in fact being preserved was that of Parliament being the highest court in the land.

The ruling of the Court of Appeal was coincidentally released when iwi were gathered at Takapuwahia Marae for the presentation of Ngāti Toa Rangatira’s evidence to the Waitangi Tribunal. An

interview participant that was there remembers the 'stir of activity' amongst iwi, as this hui turned to a dual focus, with the Waitangi Tribunal during day and night hui with discussions on the ramifications of this ruling (Participant 9). Elation was tempered with the past experiences of the appeal process, and iwi Māori plans of action were tentative in anticipation of the Crown's next move. This distrust or wariness of the Crown's actions was punctuated by the previous month's Crown rejection of Waitangi Tribunal's ruling (WAI 796 and WAI 852,) refusing to act on its recommendations.

The Court of Appeal 2003 ruling could have opened the Land Court to make further rulings within the implementation of marine policy, and given the Land Courts propensity towards driving policy more than other courts, this elicited significant reactions from the government. Within the ruling of the Court of Appeal the arbiter noted that "the State could extinguish customary land rights by passing legislation which was absolutely 'crystal clear' in its intention to extinguish the customary rights which might lie at the heart of the matter (Mitchell and Mitchell 2006 p64)." Iwi fear in knowing that the Parliament was the highest court in the country also held the fear that the Government would legislate this fundamental Court of Appeal decision out of existence. The Crown announced its plan to legislate rather than appeal to the Privy Council three days after the Court of Appeal 2003 ruling.

The fact that the judiciary and legislature are separate does not change that the balance of power falls to the hands of the legislature; Parliament sets the legislation which the courts interpret. Though Parliament can legislate around the rulings of the courts, the courts are constricted to only rule within the legislation. This is known as the Doctrine of Parliamentary Sovereignty, which the Labour Government used to criticize the Court of Appeal decision which was described as 'judicial activism' (Dixon 2003). The executive's decision to begin the process of legislating, through Parliament, around the court ruling therefore meant that despite the courts being an open point of access to Māori movements, the Government's closed reaction created a barrier to allowing this point of access to influence policy implementation.

Kitschelt (1986) noted that the output strategies of a movement can slow implementation and make the process more 'cumbersome' however this does not change the underlying policy (p70). There are great parallels between the above narrative and Kitschelt's analysis of the United States and West Germany's attempts at influencing the output phase of the policy cycle in their usage of licensing and the eventual centrality of the courts. Kitschelt's analysis goes on to state that this is simply a temporary means of objecting to a policy and "anti-nuclear activists realized that licensing skirmishes and litigation could only temporarily starve off nuclear projects and that other means of achieving their cancellation or shut-down were required (P71)." However using a framework that looks at the policy process as more of a cycle rather than two halves can identify how the destabilization and 'spanner in the works' strategy can cause policy change through the need of the Government to regain stability, speed or control of the

implementation of policies. This sentiment is reflected in the comments made by an interviewee on their experience with utilizing the courts as a strategy and point of access, as a stepping stone to policy change:

You end up using sophisticated arguments hinged on the law of the land to get tension for your issue –we Māori say that we’ve got some preexisting rights to the Foreshore and Seabed and we will be heard. Despite the fact that no one wants to, you can’t deny your own legal system. There’s this really interesting game where Māori have got to get inside the machine and use the language and the tools of the dominant culture that’s actually trying to oppress them and play their own game and win. Use its own court system it has imposed, use its own biases, perceptions, mental models of management and ideas of property rights, and ideas of laws and how it binds, you’ve got to take over those cards, play them and win, and win in a way that is so inconvenient that you’re going to get some attention and bring people to the table with a bit more seriousness (Participant 1).

In this case the court rulings highlighted the destabilization of the previous policy and identified the Government’s need for legislation for clarity, reform or replacement. The intertwined nature of politics means that although the history leading up to this policy did not fall in Kitschelt’s idea of input, as they were on the output side of the old policy, the battles fought and arguments raised in the countless court cases provided input into the foundation of the new debate. The cyclic understanding of a policy cycle allows these movements to be analyzed under this case study. The role of the Courts can be seen as a foundational aspect of input into a new policy, as the old policy draws close to the end of its cycle the courts will become more and more involved in defining and driving policy. As the policy becomes more and more destabilized and driven by the courts, the government, through Parliament, can be seen to step in and regain control of the policy process. The Court of Appeal (2003) ruling can be seen as marking this tipping point, when the courts drive the policy in a direction unintended by Parliament, triggering new legislation.

Foreshore and Seabed Act 2004 Policy Formation

After the policy genesis moment of the Government announcement to create legislation that would circumvent the Court of Appeals decision, the policy formation process of the Foreshore and Seabed Act 2004 began. The strategies, actions and tactics available to Māori in this input stage again depended on the nature of the political opportunity structures available. The below discussion will investigate those points of access available to Māori movements in the input phase of the policy process given the structures of the policy process in New Zealand.

Māori Collective Representation

The theory underlying this research discusses social movements in terms of collective and mobilized groups. There is a challenge when we speak of the many Māori voices and their attempts at

influencing policy within these case studies as this can range from individuals, iwi Māori, pan-iwi collectives, Māori trust organizations, Urban Māori organizations and many more individual or collective realizations of a political direction. These are all important actors within these policy processes, but at times some of these can be argued to themselves provide points of access for Māori to influence policy. Some of these groups have been identified earlier in brief but it is important to understand the role of these actors. In the case of the Foreshore and Seabed policy process there are a few noteworthy collectives requiring separate mention.

Te Runanganui o Te Tau Ihu o Te Waka a Maui are a pan-iwi council of the tribes of the Nelson and Marlborough area originally developed as a representative body for the eight local iwi with a specific interest in Waitangi Tribunal Claims. Te Tau Ihu is made of a kaumātua council and an elected council of iwi delegates. They must be mentioned as the rallying point for local Māori opposing the RMA and driving these movements through the lengthy court battles leading to the decision of the Court of Appeals. As previously stated the iwi at the hui at Takapuwahia Marae turned their focus to the Court ruling at the time of announcement, these meetings, and subsequent ones, led to the establishment of an incorporative society Te Ope Mana a Tai with part time staff appointed to deal with administrative matters, coordinate events/hui, and legal representation, formulate policy papers, establish dialogue with Government and other political parties, including local/regional government agencies and the community, foster media relationships, and work with other iwi and pan-iwi organizations. Many iwi joined Te Ope Mana a Tai as full participants, others joined in a less formal relationship of attending hui and assisting in policy papers preparation.

The Treaty Tribes Coalition, a collaborative body developed in 1994 to represent the collective interests of iwi in fisheries settlements also turned its focus to the foreshore and seabed case. The Treaty Tribes Coalition represents 15-20% of the Māori population and approximately 60% of the New Zealand coastline (Treaty Tribes Coalition 2015). They represent iwi from Ngāti Kahungunu, Hauraki, Ngāti Tamanuhiri and Ngāi Tahu along with other affiliates. The Treaty Tribes Coalition and Te Ope Mana a Tai are the two most prominent iwi Māori collectives in this chapter, however many more regional and national iwi and pan-iwi groups formed, or adapted their direction, over the course of this policy

Te Ope Mana a Tai and the Treaty Tribes Coalition provided invaluable rallying points for iwi Māori throughout this policy process and as such, each can be argued to not only be a collective of actors, but ultimately a point of access for Māori to attempt to influence policy. These collectives can be argued to be open opportunity structures given the fact that they are made of representatives of the voices they represent. However these channels for Māori participation are attempting to influence policy processes through access points which include filters and barriers to Māori participation. These collective representative groups participate in the policy process by means of attempting to negotiate

and inform the Government and Parliament, and therefore the effect of these representative groups depends on the openness of Parliament or the Government.

Many iwi maintained their own public presence and representation, especially with issues pertaining to their own coastal takiwā. This was due to every iwi being affected differently, as one participant (a coastal iwi leader) noted “for us we were mostly concerned about ‘our little patch,’ because that’s our ahi kā, that’s what we have the kiatiakitanga over, and what that policy looks like with our kaimoana, our mahinga kai sites (Participant 18).” Another participant (1), an iwi policy worker, mentioned in an interview the reason why their particular iwi maintained a separate public and legal representation was through the fear of a joined fate and vested interests: “with litigation, who takes the case, who pays for the case, who pays for the preparation, who do they speak for, what is the implication of running the case and losing- does everybody lose because X ran a weak case, does everyone win because Y ran a clever case and succeeded?” This participant stated that clarity and unity with less compromise on key issues in a case was more easily found through keeping within ones iwi rather than attempting to provide a unified pan-iwi case.

Government Consultation Process

The announcement of the Government’s intention to legislate on this issue was followed by the release of a discussion document; *Protecting Public Access and Customary Rights: Government Proposal for Consultation* 18th August 2003. This document set out four fundamental principles around which public responses would be sought through written submissions and ‘consultation’ hui; public access, Crown regulation, protection of iwi rights (if identified) and certainty of the Crowns rights. The consultation process following the release of a policy draft is a common occurrence within New Zealand’s policy process and provides an available point of access.

The notion of ‘good will’ was stressed with the comment “We believe that with good will on all sides that outcome can be secured (consultation document 2003).” However for Māori the interpretation of this paper was that Māori customary title would be extinguished and legislated into nonexistence by making iwi rangatiratanga subject to the whim of the Government (Peace Movement Aotearoa 2003). The Māori Law Commission (2003) noted “the concept of subordinate ‘customary title and rights’ is an unjust and illogical remnant of a racist and colonizing jurisprudence which has no place in a Treaty-based discourse of the 21st century. . . The consequent notion of a Crown right to extinguish the tupuna title and rights of iwi and hapū, and the assumption that such extinguishment can be consented to, also has no place in the discourse of the 21st century(p82).”

The Government ran eleven hui around the nation to discuss the proposal; on every occasion iwi opposed it. Often Māori presented proposals that provided analysis of how the existing legislation could be slightly amended to provide an acceptable solution to most fractions (Mitchell and Mitchell 2006).

This point was further emphasized by many other participants who noted the substantial amount of work Māori were providing the Government with through alternative solutions, in particular participants 1, 4, 15, 20 and 23 mentioned their own contributions or experiences of others work towards providing the Government with alternative policy proposals.

Not a single iwi or hapū authority supported the Government's proposed papers, and this strong opposition was exemplified by the hui held at Terenga Paeroa Marae proceeding without any government representatives as it was made public they would be unwelcome to enter the marae from the main entrance. Many symbolic gestures of disapproval were shown at these consultation hui, for example, Toko Renata Te Taniwha on instruction from his Board, tore a copy of the proposal in half, and presented his Queens Honours medals to the Deputy Prime Minister stating he no longer wished to hold them due to the Government's intentions (TV One News, September 11 2003).

More than 3000 people attended the Government consultation hui, along with an unknown number of meetings held with other audiences and private meetings. This consultation paper received almost 2200 submissions in writing, 12% of which were from Māori (*The Foreshore and Seabed of New Zealand: Report on the Analysis of Submissions* 2003). The Māori submissions were often made by collectives that represented large groups of Māori, and thus this 12% is not an adequate representation of the weight or number of Māori who responded. These were analyzed and reported on in the Department of the Prime Minister and Cabinet paper *The Foreshore and Seabed of New Zealand: Report on the Analysis of Submissions*, in December 2003. This report included recommendations for alternate options for resolving the issues provided by Māori throughout the submissions and hui, including the adaptation of existing legislation, letting the legal process run its course 'before resorting to legislation,' and alternate legislation.

This consultation process can be identified as open to Māori participation through the ability to participate, and the representation of Māori voices and objections within the report was evident. However this point of access was closed to Māori influence on the policy at the top end. Despite the many objections and recommendations in this report, the report had little effect on the policy development, as seen by the lack of influence on the subsequent policy document.

In the same month as the report on the previous consultation document, *The Foreshore and Seabed of New Zealand: Government Proposal for Consultation* (2003) reaffirmed the earlier proposal and introduced "even more draconian legislative means for dealing with the issue (Mitchell and Mitchell 2006 p80)." Māori involved in the consultation hui were reportedly surprised by the limited effect of the previously mentioned consultation process given the nature of discussions with the Deputy Prime Minister and the Minister of Māori Affairs (*New Zealand Herald*, Dec 18, 2003).

Waitangi Tribunal

Iwi Māori had already been alarmed by the breaches of the Treaty proposed in the previous government documents and by October 2003 Te Ope Mana a Tai held a hui in Rotorua where the group strategized to lodge claims with the Waitangi Tribunal. These hui are an example of Māori movements exploring their options for utilizing multiple strategies in conjunction with participating in the mainstream policy process. The hui discussed strategies for lobbying for urgency and with the December release of the Government proposals; urgency was granted for a Waitangi Tribunal hearing at the end of January 2004. In this example the output strategy of litigation became preemptively utilized as an attempt to influence the policy at its formation.

In total 149 applications were lodged to request the Government's policy position be examined by the Waitangi Tribunal. This hearing was bombarded with iwi Māori expressing fears of the impact of the Government's proposal and its breaches of the principles of the Treaty. The Crown responded by stating the Appeal Court ruling rendered the current legislation inappropriate to deal with the issue of the foreshore and seabed ownership, and regardless of other propositions, the current legislation needed to be addressed. The Tribunal rejected the Crown's submission and in early March 2004 released its strongest report yet, stating the Government's plans to prevent Māori applications to the Māori Land Court to investigate foreshore and seabed ownership was a denial of equal rights for all citizens, as promised by the Treaty of Waitangi, and would put Māori in an inferior class to other citizens.

The ruling from the Waitangi Tribunal was overt in its attempt to influence the Government as an input into this emerging policy; however, yet again this point of access met a closed government. Once again on March 8, 2004 Deputy Prime Minister Michael Cullen enforced that the Government could ignore the tribunal report, as had been done in the past. The 'status quo' was reinforced, pointing out parliamentary sovereignty and calling the Court of Appeal into question for overstepping into the affairs of the legislature.

Hīkoi

The social movements theory researching protests often talk of when and why protest action emerges; to this point we have seen prime examples of a system that is open enough to provide input opportunities for Māori to voice their opposition, but have seen the closed nature of government and the strength of the parliamentary power to block these opportunities from having any effect.

Te Ope Mana a Tai held a hui at Waipapa Marae on March 13, 2004, to consider the Tribunal report condemning the Government's plans, and discuss the Government and other political parties' responses. It was beginning to become clear to iwi that their attempts at due process (assimilative strategies) were having little to no impact on the Government's plans, as the proposal was now being

drawn into a bill to be presented to the House in May 2004. Now the previously rebuffed or tempered confrontational strategies for protests were tabled for serious thought. This hui raised the potential of a march (hīkoi) reminiscent of the Land March led by Dame Whina Cooper in 1975 and sounded out warnings to Māori MPs that they would be voted out if they did not cross the floor to vote against the legislation in Parliament (Mitchell and Mitchell 2006).

With the release of the Foreshore and Seabed Bill in April 2004, iwi organizations' perceptions of the closed policy process were solidified and they went into overdrive planning a large scale protest hīkoi. This march was planned to arrive in Wellington on May 5, the day before the tabling of the bill in the House for the first reading, and thus departed the Cape on April 22. The hīkoi was an extensive journey that required much organization along the routes, accommodation, food, transport, and all manner of logistical details, the Māori community structures that were utilized at this time are later discussed in chapter five.

The hīkoi reached Parliament on May 5, 2004, but Prime Minister Clark refused to meet a delegation from the some 20,000 people. She defended this choice stating that a meeting would not have moved the issue forward and would have created 'distress' to those who wanted the issue moved on (NZPA 2004D). The Deputy Prime Minister and most of the Māori electorate MPs, along with other members of parliament, met the marchers on the Parliament grounds. Here Tariana Turia announced the formation of a new party to represent Māori, to be formally launched in June to support her by-election campaign, a development that will be discussed later in this chapter. This reception to the hīkoi indicates the closed nature of the Prime Minister to Māori attempts to participate within this policy.

Experienced marchers reported feeling this march was more positively received than any other marches that they had been part of (Mitchell and Mitchell 2006,) and interviewees involved reported similar sentiment. The fact that many within this Māori movement perceived their efforts to be widely accepted within the broader community is important to note.

Many participants reflected the feeling that at the grassroots level Pākehā were not opposed to supporting their calls for due process. A participant who was working in iwi policy development at the time noted the tension between this general Pākehā acceptance that was felt by Māori and the staunch line of the government. This participant stated that what is often "most important in policy formation and direction is what the leading politicians believe the public will accept (Participant 1)." The perception of key politicians is often more important to policy direction than the actual reality, as they emphasized, the politicians are the ones who drive policy. This participant furthered this point by stating that "it often doesn't matter that there is a difference between a key politician's understanding of public perception and the grassroots reality, as these politicians hold the power to set the agenda, and stir up media discussion, which can mean their misguided belief becomes a reality as a result of this agenda

setting (Participant 1).” Often people I spoke with questioned had Labour not had a ‘knee jerk reaction’ to the Court of Appeal ruling, and assumed what the public would feel, that the history of this policy may have been vastly different with a more open and rational negotiation process on the back of a relatively supportive nation that was at the time relatively accepting of such processes.

Māori Public Servants

The hīkoi posed some personal challenges to many, as government employees were barred from attending, and leave was not granted to attend the hīkoi, regardless of whether leave was owed. Public servants found themselves torn between their code of conduct and their people. A representative from Ngāti Kahungunu called this a denial of their ‘Māoritanga and their iwitanga’ and claimed that these were attributes which had seen them hired as a public servant in their fields. Kiriona and Thomson (2004) reported public servants resigning from their jobs and other sacrifices both personal and professional to participate in the hīkoi. A significant number of government employees defied the ban on the final day of the hīkoi through Wellington (Mitchel and Mitchell 2006 p96). This reflects feelings participants within these roles discussed as the experiences of losing their ability to represent Māori as an outcome of working within government departments. These participants noted that when they were doing their jobs they were there as Crown officials, not Māori (Participants 2, 3 and 25).

Multiparty System

The voting system and the structure of Parliament sets out the structure of how party politics provide an access point for social movements and should be discussed here. The political structure of New Zealand under MMP has meant any political party receiving over five percent of the party votes, or an electorate seat, has access to Parliament. This has dramatically changed the nature of politics. For Māori the change to MMP brought a more representative number of Māori electorate seats; however, these seats had remained within center majority parties. At the time of this policy all seven of the Māori electorate seats were held by Labour Party representatives.

Not only did MMP introduce parliamentary representation for more than just the two major parties, but the increased occurrence of minority coalitions/governments arguably increased the influence of minority parties. The new ability for smaller political parties provided for under MMP saw the 2002-2005 Parliament hold seven (eight upon the development of the Māori Party,) political parties over the two of FPP. The increased need for minority party support to hold the position of government is argued to increase the effect these parties can have on the majority parties. A participant who is a member within Parliament, however, noted the challenge to this premise in that the “system of voting has not changed the systems of Parliament itself. We still have a thing called the government and a thing called the opposition, when that is not how the parties operate in reality: It is still considered a

two position process which is not actually true anymore, but the structures haven't changed (Participant 16)."

Vrablikova (2014) noted how more political parties can signal openings and the potential for success to movements and thus encourage mobilization; however, Crepaz and Moser (2004) argue that in multiparty systems coalition governments can create interdependence between majority and minority parties. This tension is shown below with the party lines of the majority parties and how interdependence is seen to close some of these access points to Māori movements, while others remained open enough to provide just enough hope to Māori in continuing their movement.

The party lines drawn on this policy were arguably rather closed to Māori in both government and opposition: with the Government forming policy that Māori were opposed to, and the lead opposition, National, forming an even harsher policy. The Labour Party's proposal to vest ownership of the foreshore and seabed in the state also included a provision for Māori consultation. The National Party claimed this would give Māori too much control over the foreshore and seabed, and whipped up a media campaign, 'beaches for all,' suggesting that Labour was going to hand the foreshore and seabed over to iwi. The National Party campaign was so closed to Māori opinion in this case that it was even accused of stirring up racial hatred by Labour. This stance of National closed one of the largest points of access for Māori, National being the lead opposition party.

In late July, 2003, United Future (a Government supporter in Parliament) organized a protest march in Nelson against iwi Māori claims. This march also took on racist tones with a Māori protestor facing abusive chants. This march resulted in calls from the electorate MP Nick Smith (National) for iwi to give up their claims to the foreshore in the interest of national harmony. MP Georgina Te Heuheu, the National Party's spokesperson for Māori affairs was removed from her position after she refused to support the then Party leader Donald Brash's infamous Orewa speech where racial tensions were inflamed for political gain.

From the time of the Court of Appeal rulings, the Green Party championed the rights of iwi and hapū to due process, and opposed the Government's policies as a subversion of these, thus providing a small point of access for Māori input; however, the Green party were also closed out of the Government as a minority party outside of a coalition agreement. ACT found themselves in a political pickle as they would likely have fallen in support of National party lines in condemning the Government for even allowing this issue to arise; however, ACT's fundamental belief in property rights created a tension that saw some confused statements coming from the ACT party during the policy formation (Newsroom 2003). New Zealand First was initially in opposition to the Government policy; however this stance changed to support the legislation in its later form.

Māori MPs within Government

Regardless of party lines Māori movements made strong attempts to influence individuals within parties to oppose the bill. The passage of a government bill requires the bill to be voted through three readings, Māori understood that despite the opposition's policy implications, given the 'government versus opposition' structure of parliamentary practices they would vote against this bill. Thus Māori pressured government and supporting MP's to vote in conscience against this bill. This pressure was mostly focused at the many Māori MPs in Parliament.

This practice was tentatively followed by fellow Māori colleagues Nanaia Mahuta and Georgina Beyer. Iwi Māori movements had mobilized and participated in the 'consultation' hui of the proposal, and along with their own hui and meetings with MPs, they had achieved outstanding support from the Waitangi Tribunal report and many Pākehā support groups. This public process had stirred tension within the Labour government. At a December hui at Hongoeka Marae, calls were made for Māori to reconsider their allegiance to Labour, in a move to promote Māoridom over party lines (Newtel News 2003). Gradually members of the government, particularly Turia, began to express their unease with the proposed legislation and their party's stance. Tariana Turia insisted on obtaining feedback from her Te Tai Hauauro electorate constituents before committing to the policy position of her party (the Labour Government).

The recommendations of the Waitangi Tribunal and the Government's refusal to take them seriously furthered tensions within Labour. These recommendations supported Tariana Turia's unease with the Government policy, and Mahuta urged her fellow party to heed the recommendations. The opposition parties stirred the political tensions in dismissing the Tribunal findings, and warning that if these recommendations were adhered to it would 'open the way to countless new Treaty grievances which could take years to settle (Gerry Brownlee, TV1 News March 8 2004).'

Minister Turia was the only MP to attend the March 13, Waipapa Marae hui. Turia reported the feelings of the hui back to the Labour Party, stating: "the people at the hui were literally horrified, not just at the loss of rights, but because the proposals for legislation deny them the fundamental right of access to the courts to settle disputes. (Thompson Watkins 2004)." The other Associate Minister for Māori Affairs John Tamihere dismissed the entire hui, calling the organizers 'a bunch of nuts' and rebuffed calls for protest stating "I don't accept mob rule (Thompson Watkins 2004)."

The now public rift in the Labour Party did not slow the development of the policy, as discussion of vestment of foreshore and seabed in the 'public domain' was beginning to give way to the outright 'Crown ownership'. The Government's proposal was finalized in the release of the Foreshore and Seabed Bill on April 8 2004. Regardless of the continuous attempts of Māori to influence this policy, there were little more than cosmetic changes from the original 2003 proposal. Upon the release of this

bill ACT Party leader, Richard Prebble, called for a parliamentary debate, in the hopes of flushing out the three Labour MPs (Turia, Mahuta and Beyer) who had voiced objections to the bill. This call was denied, but the three MPs were given until the caucus meeting on April 27 to make up their minds up on the policy (NZPA 2004).

On April 19, Beyer announced that she would vote in line with the Government on the bill, stating that she had to vote for her constituents rather than her personal view; "They've got my vote but they don't have my heart and conscience (Beyer quoted in Young 2004)." Beyer had previously announced she would oppose the bill but met great objection from the majority of her Pākehā electorate: noting the difference between her and Labour's other two objecting MP's, stating that Turia and Mahuta had a mandate to oppose the bill because they were Māori electorate MPs. "If there has ever been an argument to retain Māori seats for a specific Māori voice in Parliament, then this has got to be one example of that (Young 2004)."

This discussion raises an important factor of the MMP system of election; despite the diversity allowed by MMP, some MPs feel they must vote either along party lines, or with the majority of their constituents rather than their own conscience. This is due to where they receive their mandate depending on whether they are in a list or electorate seat. Beyer voiced a defense of the Māori seats in maintaining representation for Māori, as a safeguard for Māori representation. In the case of Beyer we see that despite her adding to the Māori representative count in Parliament she found herself pressured to vote against Māori interests; however the counter to this is apparent when Te Tai Tonga representative, Mahara Okeroa, on the same day publicly supported the policy, despite holding a Māori seat where many of his constituents were those who began this policy battle in Te Tau Ihu (NZPA 2004 B).

On April 26, 2004, Turia announced on Radio Watea that she intended to vote against the Foreshore and Seabed Bill, and not resign from Labour or relinquish her Ministerial post (Berry 2004). This placed the Government in a precarious position as removing Tariana's portfolios could force a by-election over her seat. Turia attended a number of hui in her electorate to gauge the wishes of her constituents on the issue. The electorate hui provided firm opposition to the Government bill, and security that if Turia were to resign or be fired, she would certainly win the seat back, and a new political party would form to provide her support (Mitchell and Mitchell 2006 p97). Labour denied Turia the opportunity to battle for a by-election, and forced Turia to resign to trigger one.

On April 30 at Rātana Pā, Turia announced that she would be voting against the Foreshore and Seabed Bill and quitting Labour on May 17. A resonating point can be made from a statement made by Helen Clark, "it is an astonishing lack of perspective to throw your job and the work you do for your people up in the air over this issue (sourced online, Berry and Tunnah 2004)." Perhaps to the Pākehā

Prime Minister this was not a worthy issue to take a stand on, however it was evident that this issue was of utmost importance to Turia, Turia's constituency, and Māori communities; at this moment the hīkoi was in Rotorua, and a gathering of over 2500 Māori at Rauhoto Marae applauded Turia's actions and called for Māori to strip Labour of its seven Māori electorate seats in favor of a 'for Māori, by Māori' party.

Te Tau Hauauru held its by-election on July 10, the newly created Māori Party campaigners used this by-election to launch a nationwide campaign to muster membership and raise the party's profile. Both National and Labour did not place candidates in the electorate and thus voter turnout was expected to be low, however turnout was higher than expected with 8500 votes cast, with 90% voting for Turia (NZPA 2004E). This voter turnout can be seen as an example where Māori efficacy was extremely high, and there was a belief that this vote could make a difference. The election of Turia was a landmark for Māori as she was hailed as the first candidate elected from an autonomous Māori party, with Hone Harawira stating that; "it is huge in terms of the mental leap for Māori. Up till now, we've always tried to hang on with somebody else (Watkins 2004)."

The final of Labour's three objectors, Nanaia Mahuta, had negotiated permission to vote against the bill, claiming the bill was a step too far. She had assured the Prime Minister that she would not follow in Turia's footsteps and leave the party upon her iwi advising her that she would be more effective by staying in the government. Here the unwavering party line was negotiated to provide leniency in the face of further withdrawals and the potential to destabilize the party. The male Māori MP's faced widespread criticism for 'failing to stand by their sisters,' for being 'traitors to their tribe' and abandoning those wāhine who did speak out (Turia, Mahuta and Metiria Turei of the Greens) (Kiriona 2004). This was accompanied by repeated calls to express this sentiment in the next election.

Many participants (7, 15, 16, and others) discussed the divided nature of Māori politicians within Parliament and their inability to work beyond party lines and collectively stand as Māori on controversial issues such as this. "Tariana pulled out, and you had a division of the Māori politicians . . . it just makes it harder for the work that they have to do, and we [as Māori] have to do when they divide. I think it's a shame that they each take a stand on all their different party lines and that they cannot come together (Participant 7)." Others noted the failings of Māori to collectively turn to the Māori electoral roll and boost the number of Māori seats within Parliament when the electoral roll was available for change in 2003 (Participants 13, 23 and 28). This division displays the tension between Māori MP's obligations to voice Māori concerns versus the ability for Māori to collectively increase that voice through Māori electorate MPs.

First Reading

The Debating chambers of Parliament were packed on May 6, 2004, mostly with marchers remaining from the hīkoi the previous day, to hear the first reading of the Foreshore and Seabed Bill. Brash was accused by Horomia and Winston Peters (New Zealand First) of trying to cause chaos by inciting racial tension. Janette Fitzsimons (the then Green Party co-leader) spoke out stating that; “It should be obvious by now that many thousands of other New Zealanders do not support it either, and they are not just Māori. They have come from every corner of New Zealand: grandmothers and tiny babies, kaumātua and rangatahi; at least 15,000, and some say even 30,000 to tell us in this Parliament to taihoa (Hansard 2004 p12718).” Metira Turei called for the Government to withdraw the legislation and enter true negotiation with Māori to reach a solution that meets the needs of both Māori and public. Richard Prebble spoke in opposition on behalf of the ACT party, stating the need to defend a citizen’s right to go to court. Peter Dunne (United Future Leader) spoke of the divisive nature of this policy, forming a lose-lose situation that would take a great time to heal; he reminded the house of the Treaty settlements of the 1990s and their bipartisan approach.

Mahuta announced her opposition to the bill, as she drew on her electorate and their opposition to support its stand and expressed further apprehension that the bill was ‘fundamentally flawed’ and “This and future Governments will be revisiting this matter should the bill continue (Hansard 2004 p12718).” Gerry Brownlee (Deputy Leader of National) spoke out in opposition to the bill, stating the massive opposition to the bill showed its flawed nature, and calling out Labour’s other Māori MPs for not opposing the bill. Upon speaking Turia outlined how this policy was a rights discussion, of property rights and the right to due process through courts. She finished with a statement: “We are tangata whenua, and we are proud of it. It is that pride and determination that will drive us in the next hīkoi to the ballot box. We can determine our own future, and we will (Hansard 2004 p12718).”

Select Committee

The Foreshore and Seabed Bill passed its first reading 65-55 and was therefore sent to select committee for consideration. The select committee processes are in place in New Zealand to provide a check on government that other democratic systems gain through bicameral parliaments. This would be a six month process. The select committee process was open to written submissions or a notice of intent to make an oral presentation until July 12, 2004; upon this closing date the committee had received thousands of submissions. The ability for changes to the bill to occur as a result of the select committee gave Māori hope and submissions flooded in. However Māori trust in this process was limited, and concurrent appeals to the UN were being lodged, with continued protest including a series of local and regional hīkoi held during October 2004. This once again depicts the concurrent use of the input points of access (being the select committee process) alongside those strategies Kitchelt (1986) deemed to be

aimed at outputs. Similarly to the discussions of large hīkoi, Māori movement's dual approach can be explained by their distrust in the Government paired with a preemptive identification of a closed system based on their long history of interactions with government.

The select committee process again uncovered the previously noted Pākehā support for iwi claims, with the New Zealand Business Roundtable Executive Director appealing for the bill to be scrapped in favor of due process: "MPs reacted too quickly to the Court of Appeals decision in the first place (Independent Radio 2004)." A combined statement from the Anglican and Roman Catholic Bishops urged the Government to drop the drive to legislate and 'return to square one' due to overwhelming Māori opposition and their belief the Treaty of Waitangi was "fundamental to the well-being of New Zealand (Independent Radio 2004)."

Political dissent from within Labour continued as Mahuta expressed Tainui's objection through her written submission on the bill. This was followed by the chief of the Māori Language Commission Haami Piripi presenting a strongly worded submission warning that "the country could be brought to its knees by internal conflict and perhaps civil war over the coming decades as a direct result of this bill (Berry 2004B)." The political backlash from this submission saw calls for Piripi's resignation, with the Minister of Māori Affairs describing it as nonsense, and the Prime Minister calling it 'inappropriate' for a public servant, stating regardless of the stance, a public servant should not be making a submission as such actions make them 'political activists.' This again exemplifies the ability for Māori professionals to become stripped of their ability to represent Māori voices by their job. Mitchell and Mitchell (2006) noted this reaction to be a continuation of the 'clamp-down' from the Government on civil servants participating in the hīkoi months earlier (p112). Criticisms of a conflict between the post held and placing a submission was further exemplified when judges of the Māori Land Court who made submissions pointing out the legal inconsistencies and consequences of the bill were criticized for overstepping the separation of powers. Piripi later released an apology, stating he was making a submission primarily as an iwi/hapū representative separate from his position as a public servant.

Over the course of the select committee hearing just under 4000 submissions were received, yet the select committee decided to hear only 300 of those intending to make an oral presentation. The time limit placed on presentations for those granted a hearing was also seen as a denial of due process. The committee also came under fire for its decision to not sit locally in many areas, one particular example is the Chatham Islanders lack of a local hearing despite Te Whaanga Lagoon being one of the few specifically mentioned to have customary rights ruled out in the Foreshore and Seabed Bill.

Turia was publically unhappy with not being granted a voting right on the select committee despite the Māori Party being formed central to this bill. She, however, attended many of the hearings and the Māori Party released a press release claiming that only 6% of the 3946 submissions were in

favour of the bill (Māori Party 2004). I interviewed another MP about their experience with the wider select committee process, and they made note of the political structures underlying the select committees that created a barrier to participation;

The chair of select committees and the ability to have people on select committees is determined by one, your number of seats in the house, and two the government. So there is not a sense of equitable sharing of, say, select committee chairs and deputy chairs, and while that seems small, it would be a structural change that would give particularly the smaller parties the chance to be involved in helping to manage more collaborative policy making and legislative discussion. They would be in positions of authority and would be answerable to not only their committee but also the bureaucracy of parliament beyond their own party. (Participant 16)

On November 4, 2004 the select committee reported back to Parliament and, despite the overwhelming opposition in submissions, the Committee returned the Foreshore and Seabed Bill virtually unchanged. Māori were reportedly surprised, angry and disappointed at the lack of changes proposed by the report, expressing the feeling that this process was a complete waste of time (Houlahan and Small 2004). Mark Solomon (Kaiwhakahaere of Ngāi Tahu) said that it was “astounding given the number of submissions against the legislation that it could be returned virtually unchanged (Houlahan and Small 2004).” The political divisions within the committee had reportedly blocked agreement on amendments and therefore stopped any substantive recommendations (Houlahan and Small 2004). Here this open point was closed by the Government arrangement of the panel, resulting in a lack of influence into the policy.

Throughout the process of contacting iwi, trusts and Māori collectives for interview participants I identified one interesting underlying theme in their responses. Over the course of my research I received a large number of people and groups’ submissions to the select committee on the Foreshore and Seabed Bill. Quite often I would receive a response expressing that the iwi or hapū were involved in the policy as an affiliate of a larger collective (for example Te Ope Mana a Tai or The Treaty Tribes Coalition) and therefore they did not have someone for me to interview, but they had attached a copy of their iwi or hapū’s submission to the select committee. At times I would be provided with a bundle of submissions from a region, other times the people I was directed to interview were identified by those who had written a submission. It was very common for sources to arrive to an interview with a copy of their own or their collective’s submission and refer to it quite often. The frequency with which this response came to me, and the way I was presented with the submissions, demonstrated to me that Māori involved in this process saw these submissions as an important element of their participation.

The interviews also identified an underlying theme of hope and faith that the select committee would listen to the numerous Māori and Pākehā voices speaking out in objection to the bill and take the

appropriate steps to recommend amending it. This notion was then followed by the expression of devastation and despair that this was not the result of the select committee, and that those voices were not heard. These people spoke of the trust Māori had placed in the political process, and the failings of that system to express and represent those Māori who had placed their trust in this system (Participants 13, 19, 26, and others). Other Māori spoke of an element of distrust, or learned weariness, through years of experience of the political system failing to reflect Māori rights, voices or ambitions. These participants ensured me they never stopped in their battle to be heard and submitted their select committee objections in parallel with working on other means of influencing the policy (Participants 11, 20, 29).

Interestingly Māori and politicians alike in the earlier stages of the policy formation expressed a 'wait and see how the select committee goes' sentiment; however, in terms of Kitschelt's (1986) notion of when people can influence policy, at this stage of the process the Government had solidly formed their policy and were already unwavering. This solidification of the Government's direction interacts with the above claim that the select committee process was still conducted under the same understandings of parliamentary practices as FPP, and thus the Government was able to act as a filter to this access point.

United Nations Submission

As stated above the distrust learned through past experiences saw Māori continue to advance other strategies alongside those of the select committee. This point of access is an interesting one that has long existed but is seldom utilized in New Zealand's domestic politics. It can be seen as an example of Kitschelt's identification of times when a movement meets such a closed environment that it pushes for alternate means of access. Shortly after the passing of the first reading of the Foreshore and Seabed Bill, Te Rūnanga o Ngāi Tahu announced its plans to lodge a formal complaint to international forums with the support of other iwi representatives (Taranaki Māori Trust Board and the Treaty Tribes Coalition). They lodged a complaint with the United Nations Permanent Forum on Indigenous Issues claiming that the Foreshore and Seabed Bill was "the most serious example of racial discrimination against Māori in the last 60 years" and a "disregard for indigenous people's rights (Christchurch Press 2004)." Tahu Potiki (Ngāi Tahu's then Executive Officer) called this rare step a 'last ditch' attempt to secure Māori rights to have the courts hear claims to the foreshore and seabed; however, the forum has no authority over the New Zealand government, and the wide spread support (especially within the Pacific caucus) granted little more than moral credibility.

Ngāi Tahu's understanding of the limitation of influence yet hope was reflected in Potiki's statement at the time; Potiki said while he did not think the Government would budge on the issue, the support from other nations lent weight to Ngāi Tahu's arguments. "I think every little bit (of attention) is

going to help, but at the moment the Government is pretty resolute. The bottom line is the Government is very adamant that the public support issue is more important to them than human rights (Christchurch Press 2004).”

This strategy was successful in opening this point of access and convincing the UN to lobby the government; however, once again Māori movements were faced with the barrier of a closed government. The United Nations Committee on the Elimination of Racial Discrimination (UNCERD) requested an explanation of the foreshore bill. However, the Government responded stating that they had a record of dealing with Māori claims in good faith, and rejected claims that MPs were fomenting racial intolerance (Mitchell and Mitchell 2006).

Ngāi Tahu also petitioned CERD to invoke its early warning and urgent action procedure to review the Bill (and eventually the Act) in light of the International Convention on the Elimination of All Forms of Racial Discrimination. The timing of the lodging of the complaint and the report released by CERD with recommendations places this access point straddling two chapters of this thesis, and the report will be discussed under the following chapter. However Māori initially pursued this action during the input phase of the policy as an attempt to influence the policy, and it must be noted that the resultant international political pressure can be claimed to have met a closed point of access in the government.

Private Negotiations

The nature of the stakeholder democracy practiced within New Zealand provided some Māori with a viable input to the policy. The stakeholder democracy is argued to have given some iwi greater policy influence. Ngāti Porou and the other local iwi were identified throughout the policy process as large stakeholders under this policy as they had retained a large portion of lands adjoining the coastline. As a participant noted;

The Crown’s objective was to get the iwi who would have the most extensive rights under the future policy to be happy with the policy. That was Ngāti Porou and Te Whānau-a-Apanui, as they had the most Māori land that abutted the coast line, so they were going to have the most extensive interests under the future policy. The Crown effectively had private negotiations going on with Ngāti Porou and Te Whānau-a-Apanui (Participant 20).

From early 2003 Ngāti Porou, Te Whakatohea, Te Whānau-a-Apanui and a collection of other iwi from the region began separate negotiations with the Crown over their customary rights as key stakeholders. These iwi hoped to conclude their negotiations prior to the passage of the legislation; however, negotiations were hindered by the political debates and their claims were not fully finalized before the passage of the Act, although an infamous 11th hour agreement was made.

The process of negotiations allowed for these iwi to arguably have some level of Māori influence over the policy during its formation; however, this was a process that was widely resented by the other iwi who were collectively trying to oppose the policy as claimed by many interviewees. When asked about their personal perception of Māori influence on the policy formation it was common that participants perceived Māori had no influence, and when they did, this was only by Ngāti Porou and Te Whānau-a-Apanui:

For Foreshore and Seabed I think that Ngāti Porou and Te Whānau-a-Apanui were influential on the Crown, everyone else was completely irrelevant. In the various select committees submissions and all of that kind of stuff there were very practical recommendations about how the statute could or should be amended to make it more plausible and they were just routinely ignored (Participant 20).

There was often a sentiment of resentment towards Ngāti Porou and the local iwi which continued after the passage of the policy, which will be discussed in the next chapter, as these iwi continued to be consulted over the implementation of the policy. Political commentators and other iwi suggested their influence was due to the number of policy workers within the Government from these iwi. The claim of policy workers influence however was disputed throughout this research and will be discussed within the conclusion. The resentment was so strongly expressed by one participant that they noted it was almost political suicide to be of Ngāti Porou decent and stand in other Māori electorates in the following election (Participant 7).

Everybody was on the hīkoi and all the rest of it to go down to Wellington to protest, but Tainui went in the back door and did an eleventh hour deal behind everybody's backs. And there went Nanaia Mahuta's political support across the spectrum, she was Tainui forever after that and will never be anything but Tainui politically because she didn't have the ability to step away from that deal. It looked like she was right in the middle of it, even if she didn't know a thing about it, it has forever branded her because she was there at that time (Participant 13).

The resentment is an interesting development as often iwi and hapū attempted individual participation like that of Ngāti Porou and Te Whānau-a-Apanui. Participant 15 noted that "it is a positivist view that your participation is seen as affirmation," this participant notes that this action is about "adaptation and making the best of what is on the table." This individual participation was often in conjunction with being affiliated with or operating within larger representations of the overall Māori opposition to the bill. The fear of a joined fate led to a double fronted approach with a collective interest and an eye at home.

Interview participants, especially those who were iwi leaders, expressed their individual iwi's efforts to influence this policy. This individual/regional interest was often recalled through expressions of their responsibility for their 'own patch.' Here the difference was that the individual efforts did not

leave behind the collective efforts, whereas Ngāti Porou and Te Whānau-a-Apanui's efforts were seen as by other iwi opposing their movement, despite their participation within the wider Māori movement. This feeling can be attributed to the common belief that participating in a bad policy gives some form of tacit consent or validity to it. The reality and rationality of Ngāti Porou and Te Whānau-a-Apanui's actions will be discussed further in the next chapter and analyzed in the conclusion.

Media

The media is often a point of access within politics when there is a free and independent press as is in New Zealand. The media as an access point is different from others in the fact that it is a continual point of influence on policy throughout the entire policy cycle. The media has the ability to raise the importance of an issue, create a frame, provide access for interest groups to debate and disseminate information. The openness of the media to a movement can be very important in the influence they may have on policy. This access point is well established and therefore a stable aspect (Gamson and Meyer 1996) in terms of its presence. However it can also be seen as an unstable aspect given the fact that its openness to any movement can be variable. The media can be driven by many factors, for example, interpersonal relationships, structures of the organization, funding, ease of sources, appeal of a story. The many factors involved mean that the media as an influence on policy can be very unpredictable.

In the case of the foreshore and seabed policy the 'sensational' drive of news reporting closed this point of access off somewhat. As argued above the agenda setting ability of the majority parties allowed them to solidify and self-fulfill their beliefs of the public sentiment surrounding this issue. This was made easier by the complementary nature of this frame playing into those aspects that 'sell stories.' The media frenzy surrounding this debate played upon the public fear of losing their rights to swim, picnic, walk and do other recreational activities at the beach. These emotive claims create a better story for newspaper sales than the complex rights based discussions of Māori customary claims.

The media's role within this policy was very important as perception of public opinion played a large part in justifying the Government solidifying their beliefs and closing the policy off from Māori influence. The belief that the public would not stand for allowing Māori customary rights to be investigated and the risk of the change of ownership was one of the driving forces behind the Government's policy, and the media can be argued to have both supported and helped create rhetoric. Participant 15 discussed how the Indigenous rights rhetoric was far too complex to be easily framed within the sound bites and short sharp nature of the media. This participant noted how it is a tragedy of this point of access is that it is not capable of holding the in-depth conversations that could have facilitated a public discussion of Māori rights that may have led to innovative policy.

Whether the media cultivated this perception or simply did not challenge it is a question for a wider investigation. There also remains a challenge when commenting on the media reporting of this case, as the media reporting may have been limited due to the parameters of the political debate. The two major parties both framed this policy discussion towards the importance of public access, away from the issues of customary rights. However a few examples may be used to identify the media framing of the issue itself and relaying of public opinion to governors.

Early framing came out on August 2, 2003, when the New Zealand Herald broached the issue of foreshore ownership, as Minister of Land Information, John Tamihere, prepared initial reports that showed the public had no rights of access to at least one-third of New Zealand's Coastline already (Berry 2003). This article contained 30 paragraphs of similar length, which focused on public and government concern over foreshore ownership. It was not until the 24th paragraph that a Māori perspective was broached. In a total of 30 paragraphs, four covered the Māori 'side' of the debate. This does however show that the media was not completely closed reporting to Māori input. The entirety of this input phase however was arguably dominated by the Pākehā claims to recreational access of the beaches, rather than the rights discussions of Māori. Participant 17 emphasized the media framing by stating that, "if you asked any member of the general public what the Foreshore and Seabed Act meant to [iwi] Māori, very few would be able to even scratch the surface of our issues."

As discussed earlier the hīkoi was reported by those within it to be well received by the public. Yet the reporting of the media hīkoi used terms like 'rebels' and 'disruptive' and when it reached the steps of Parliament Helen Clark's refusal to even meet it was reported to state; "if anything it drives it the other way because people have had a gutsful of the extreme language and extreme rhetoric (NZPA 2004 C)."

One of the reoccurring themes that arose over the course of the interviews of people involved in the foreshore and seabed policy was this sentiment expressed by Helen Clark. Often Māori mentioned the governments 'kneejerk reaction' to the Court of Appeal ruling and the formation of this policy being based on the government/Prime Ministers interpretation of the public sentiment. An academic participant spoke of this by making the analysis that "perception of public opinion almost trumps everything because if the Government believe the public won't allow them to do something, they won't go there. Even if it's a right/intelligent policy, or even if they are wrong about what the public will handle (Participant 1)." The media play a large role in not only relaying the political debate, but framing/fueling public opinion and providing feedback of this to politicians.

Bill Becomes an Act: Second and Third Readings

The decision to place these seemingly large and separate points of access within one subheading reflects the limitations the Government placed on the readings due to the time given to debate and

provide input into these within Parliament. On November 14, Deputy Prime Minister Cullen confirmed the Government's intention to "to ram the foreshore and seabed law through Parliament this week to shut down the most controversial issue of its five years in office (Small 2004)." Gerry Brownlee, of National, stated that "the Government was showing utter contempt for the public by ramming the changes through under urgency (Berry 2004C)." From this announcement it was only four days until the foreshore legislation was passed through Parliament and the Act was finalized. This was criticized as an attempt by the Government to "clear the decks before Christmas and give them a clean run in election year without this contentious legislation getting in the way (TVNZ News 2004B)." This points to the continued ability for governments to enact fast policy changes under MMP which goes against many expectations of MMP discussed in chapter one. Once again this can be attributed to the continuation of the previous conceptualization of government and parliamentary practices despite the electoral change.

Māori groups across the country held localized protests at Labour offices during the second and third reading stating that "despite ignoring us through the submissions process and other legal channels we will not be silenced. We will continue to speak out when the Treaty of Waitangi and human rights breaches take place (Takutai Moana Otautahi Collective 2004)." The Wellington Takutai Moana Poneke Collective took protests a step further and interrupted the parliamentary debates with banners reading 'another colonial land grab' and 'shame!'

In one final attempt at influencing the bill before it became legislation Te Ope Mana a Tai produced a *Summary and Analysis of Amended Foreshore and Seabed Bill: SOP Tabled 16 November 2004*. This paper was a "last ditch attempt to persuade rather than brow-beat" the Government, but was to no avail (Mitchell and Mitchell 2006 p121). The final statement of this document says it all;

Overall, the inescapable conclusion that must be drawn is that the amended Bill represents a further deterioration in the willingness of the Crown to recognize and respect customary rights guaranteed under the Treaty of Waitangi and at international law, and the legislation continues to represent an unparalleled attack on Māori as the tangata whenua of New Zealand in a manner not seen since the mid-Nineteenth century (P8).

The Second Reading of the Foreshore and Seabed Bill was held on November 17, 2004 and again passed through Parliament, 65-55. After the second reading Cullen introduced the 67 page Supplementary Order Paper, setting out proposed amendments to the bill which were to be debated under urgency. Labour dissenter Mahuta spoke out in favor of the introduction of the proposed amendments but did not allude to whether this would change her vote opposing the bill. On November 18, the foreshore legislation passed through its third reading with a now 66 votes due to Mahuta's change of heart after the amendments. The passing of this legislation saw the legal extinguishment of Māori rangatiratanga over the foreshore and seabed; however, for Māori the passage of this legislation

was not the end of the battle “For Maori, our history of struggle continues, ka whawhai tonu mātou, ake ake ake (Turei 2004).”

Summary

This chapter provides an analysis of the policy cycle leading to the implementation of the 2004 Foreshore and Seabed Act. It discusses how Kitschelt’s framework can identify the way the political environment and political opportunity structures can shape strategies and determine the success of Māori movements. Through the cyclical adaptation of Kitschelt’s framework this chapter has been able to analyze the strategies of Māori movements beginning with the output phase of the previous policies to better understand the mobilization and strategies of Māori movements.

As we saw, Māori opposition to the appropriation of cultural lands and resources under long standing policies led to two strategies of participation at the output and implementation side of the policy cycle. These strategies were a ‘two pronged’ approach of opposition at licensing and pursuing action through the courts. The ability to pursue these strategies was argued to be created by the introduction of the RMA. Kitschelt argued that “political opportunity structures function as filters between mobilization and the movement and its choice of strategies and its capacity to change the social environment (1986 p59).” The combined decentralization and introduction of more access points are examples of weak implementation that, as Vrablikova (2014) noted, signal to citizens that they, “(a) have more options and access points for influencing politics, and individuals have (b) a higher chance of being successful if they decide to participate (p206).” Kitschelt noted that when the capacity to implement policies is weak, movements have the chance to disrupt policy during implementation through litigation and licensing opposition. The introduction of the 1991 RMA therefore changed the political environment from one that was completely closed to Māori participation to one which was seen to encourage mobilization through new potential points of access.

These early strategies are deemed assimilative under Kitschelt’s framework which noted three times when assimilative strategies are implemented by social movements: the open input with strong implementation, open input structures with weak implementation, and the weak output structures with closed input systems. The use of assimilative strategies to disrupt the implementation of the previous policies shows that the political opportunity structures available to Māori at this time were open enough to allow Māori participation without completely stifling the movement’s actions; however, the limited success within these strategies identifies closed input structures. Decentralization at output moved structures from strong towards the more weak, placing this policy development in at the time of assimilative strategies in the closed and weak depiction of Kitschelt’s framework.

As the licensing process of the early legislation began to be tested, challenges to the implementation were taken to the national courts. The court’s role within policy is to oversee policy

implementation through applying a policy as outlined by government. While the courts are not often active drivers of policy, they can certainly shape old legislation. The Māori Land Court and Waitangi Tribunal are often seen to be more active in attempts to drive policy. As policies begin to face opposition, the courts often redefine legislation through their interpretation, in this case by introducing the jurisdiction of Land Court. With the Māori Land Courts more active in redefining policies, the ruling of the Court of Appeal provoked action from Parliament as politicians viewed the court action as beginning to encroach on their role as the country's key policy driver. The Government therefore stepped in to regain control over the policy process.

The select committee process was put in place to be the check on New Zealand's unicameral Parliament, and is designed to slow the speed with which legislation can be passed in such systems. From the 2003 genesis moment the Government was able to pass one of NZ's most controversial pieces of legislation in only one year. This rapid passage of such a controversial policy undoubtedly questions the earlier discussed expectations that MMP would slow the 'steam roller' of government down. This chapter has discussed many of the strategies and points of access utilized by Māori movements in opposition to the formation of this foreshore policy.

The formation of the Foreshore and Seabed Act 2004 saw the now mobilized Māori movements utilizing many access points in an attempt to influence the policy process. This mobilization was faced with closures introduced by the Government that created barriers that triggered more confrontational strategies. The hīkoi and use of the Waitangi Tribunal are examples of the flaw in Kitschelt's strict two phase input/output policy process as this thesis would argue that Māori had identified the barriers to their actions and preemptively utilized these output strategies to influence or prevent the policy at formation (input).

Similarly, the Māori movement's identification of the closed process of the Government is a prime example of the environment conducive to the emergence of confrontational strategies in an attempt to create a new point of access. Kitschelt (1986 p67) noted that when a system is closed to input, social movements will broaden their demands and push for alternate means of access. In this case study, pressure from Māori movements was seen to result in the creation of a new political party. Therefore Kitschelt's framework provides us with an understanding of the emergence of the Māori Party.

This chapter highlighted some of the many concurrent strategies employed by parallel Māori movements in attempt at influencing the formation of this foreshore policy. As well as participating nationally in the select committee processes, some iwi began pursuing their claims under the international forums provided by the UN. Under Kitschelt's framework lobbying and petitioning falls within input strategies and the use of the UN can be seen as a means of lobbying this external body to

step in and influence policy. This strategy was once again utilized by Māori movements as a response to the closed political opportunity structures, preemptively anticipating the results of the select committee. The UN was not a completely new access point; however, its influence on the domestic policy process was seldom used, especially in New Zealand, and can therefore be seen as an attempt by Māori movements to introduce this as a new point of access.

Similarly the individual pursuits of Ngāti Porou and Te Whānau-a-Apanui highlight how there are many different Māori movements, employing different strategies. The different strategies in this chapter are explained by the local mandate of iwi or hapū representatives to pursue the best interests of their people; however these also highlight the ability for different openings to occur, as the government identification of these iwi has key stakeholders opened communication and provided a channel to influencing the policy other that was closed to other iwi. This discussion, and an analysis of the extent of the opening and subsequent success of these negotiations will continue in the following chapter.

The input phase of policy cycle discussed in this chapter identifies the continued ability for the government to control or dictate policy development with similar unwavering strength as it could under FPP. Firstly the ability of the government to close the policy process to Māori movements was expressed at the genesis moment, emphasizing the strength given to the government through the separation of power that sees Parliament the highest court. As the policy process continues through the final stages of formation the continuation of the previous understanding of government is argued to have created most of these barriers to Māori input, allowing the Government to continue in spite of the Waitangi Tribunal, UN attention providing emphasis to the Māori movement, and strong political opposition from the leading opposition and minority parties in Parliament. This emphasizes the strength of the Executive in New Zealand's policy process, and the ability for the executive to filter social movement's input.

Upon the passage of the Foreshore and Seabed Act 2004, the input phase of this political cycle can be seen to be completed and the output phase begins. The conceptualization of policy cycles provides us with a better description of the policy process; however, it is never entirely clear where a policy ends or begins, as we see with the beginning of this policy stemming from the output of the old policy. Yet this provides us with a logical point to divide these two analysis chapters. In line with the structure of this chapter, the following chapter will discuss the policy cycle of the 2011 Marine and Coastal Area (Takutai Moana) Act 2011 by beginning with the output of the Foreshore and Seabed Act 2004.

Chapter Four

Marine and Coastal Area (Takutai Moana) Act 2011

The passage of the Foreshore and Seabed Act 2004 did not mark the end of Māori movement's attempts to oppose the legislation. The following chapter will discuss the points of access and strategies utilized by Māori movements in opposition to the implementation of the Foreshore and Seabed Act 2004 and how these are able to influence the policy process.

The life cycle of a policy can be very long, or turn over remarkably quickly. McAdams (1982) noted cases when Supreme Court decisions in the United States and favorable government actions spurred protest movement mobilization and created a spiral of reform as government responded to dissident protest. It is not unusual for a policy to begin with opposition, and thus opposition is not the sole driver of policy turnover. In some cases opposition can be appeased during implementation (through open channels for participation), and others wither away (given strong closed output structures). This chapter will discuss the output of the Foreshore and Seabed Act 2004 and how Māori movements presented continual dissent which caused the rapid turnover of the policy.

Implementation of Foreshore and Seabed Act 2004

2005 Election

Elections are seen as the public's time to voice their opinion of the Government through the ballot. Throughout the formation of the foreshore and seabed policy Māori often made calls to collectively vote out those who did not oppose the policy through its readings. Although an election is a system put in place for the public to express its opinion, apart from rare cases, it is the political parties who set the agenda for elections. Without the provision of a referendum it is unlikely for an election to be fought on one key policy; however, there may be some pivotal policies. The output phase of the Foreshore and Seabed Act 2004 included two elections, both with very different choice sets and impacts for Māori within this policy field. The 2008 election will be discussed later as although the two elections resulted from the same political opportunity structures, we will see that their openness, and the resultant points of access available to Māori vary.

In the case of the 2005 election there were limitations to how Māori could influence the Foreshore and Seabed policy. The election created difficult decisions for Māori voters as Labour had so wronged iwi Māori and many had vowed to reflect this in the vote, yet National were campaigning for even stronger legislation, and neither major party were talking positively about a coalition with the newly formed Māori Party. This election saw racial tensions further exacerbated with National campaigning on some very hard line Māori policies born out of the Foreshore and Seabed debates. These included abolishing the Māori seats, Treaty settlements to be completed by 2010, that references

to the Treaty and its principles deemed 'inappropriate' would be removed from statutes, that Māori history and spirituality would have no impact on RMA and other resource allocations, that Māori would have no separate rights to representation on state-funded committees, and that the Foreshore and Seabed Act would be repealed in favor of sole Crown ownership with no allowances for Māori customary rights. In terms of Kitschelt's framework the National Party campaign during this election favored an approach that would stifle Māori movements by, removing points of access, completely closing the foreshore legislation to any Māori attempts, and strengthening the output structures substantially enough to signal no ability for success.

It is hard to know exactly how much impact the Foreshore and Seabed Act had on the results of the 2005 election; however, McEnteer's prediction that the parties involved would "rue the day they pass this legislation" was foreshadowing (Berry 2004B, online article). What can be argued is that during this polarizing election the New Zealand voters were faced with the two leading parties holding the power, as nearly all the minor parties lost the vast majority of their seats to their larger counterparts. The 2005 election saw Labour lose fourteen electorate seats, however it maintained a steady party vote. National gained ten electorate seats, and most noticeably nearly all smaller parties took a large hit; ACT lost seven seats, dropping from nine to two seats, New Zealand First dropped six from thirteen to seven, United Future lost five seats to end with three and The Greens dropped from nine to six seats.

It is argued that the only thing preventing the Labour Party from 'ruing the day' as the minor parties had was the hard line of National. It is argued that in general the Labour Party vote was not so much a vote in favor of Labour, but a deliberate attempt to block National (Mitchell and Mitchell 2006). The Labour Party most definitely lost traction in the Māori electorates where Māori were able to elect a favorable alternative.

The Māori Party appeared from nowhere, born out of the Foreshore and Seabed debates, to oust the strong Labour hold on Māori electorates, take four seats, and devastate New Zealand First's share of Māori votes. The emergence of the Māori Party produced the first overhang since the introduction of MMP with a party vote allowing for three seats but winning four electorate seats. In Māori electorates Labour dropped by a considerable margin from holding all 7 Māori seats in 2002 to holding only three. It must be noted that due to National's policy on removing Māori electorates they stood no candidates in these electorates.

United Nations

The UN action initiated in the previous chapter begins to exert more firm pressure on the Government at this point in time. On March 11, 2005, the United Nations Committee on the Elimination of Racial Discrimination (UNCERD) released its findings on the Foreshore and Seabed Act 2004, stating that it was concerned about the political atmosphere that developed in New Zealand following the

Court of Appeal rulings. The UNCERD report was initiated as an 'early warning and urgent action procedure' and noted the exploitation of racial tensions for political gains, condemned the haste with which the foreshore legislation was enacted, claimed 'insufficient' consideration of alternate responses that may have better accommodated Māori rights, and commented on the consultation processes failings in narrowing differences between parties. The report concluded that the foreshore legislation did 'contain discriminatory aspects against Māori' and cited New Zealand's obligations, as signatory to the UN Convention.

The recommendations that came from the UN committee were for the Government to resume dialogue with Māori about the legislation in an attempt to mitigate its discriminatory factors, monitor the impacts of the implementation of the Act on Māori, and take steps to minimize the Act's impact on Māori through flexible application and a broad scope for redress. This recommendation was placated by the Government with their expressed intention to create a report on the implementation of the Act by the end of 2005.

Although some expressed disappointment that this report had not been made prior to the passage of the Foreshore and Seabed Act (Mikaere, Chairman of the Treaty Tribes Coalition), others (including participant 26) used the report to call for negotiations to resume. The Māori Party released a press release the next day stating they would take up the recommendations with the Government as 'a matter of urgent priority.' The Government however quickly dismissed the report's advice, ruling out any possibility of reopening negotiations, and claimed the report's wording did not explicitly state the Act was in breach of any international racism conventions (despite the report citing Articles 5 and 6). Erueti and Charters (2005) criticized the Government's brash dismissal of the United Nations report, minimizing and misrepresenting the report's findings, and the Government's opposition to Māori exercising their legal rights under international law.

As discussed in the previous chapter the use of the United Nations as a point of access into the domestic policy process is not a completely unheard of means internationally, however it is a rather rare process in New Zealand politics. The process of taking a complaint to the United Nations Permanent Forum on Indigenous Issues was initiated as an attempt to influence the policy at the input phase, and is discussed in the previous chapter; however, the timing of the release of the UNCERD report places it in an interesting role as it came with output suggestions on how to combat the challenges of the legislation through negotiated implementation. This recommendation came a few months before the September election and was diverted from the election agenda by the Government claiming they would create a report on the implementation of the foreshore act by the end of 2005 after the election.

Following the 2005 election, the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples visited New Zealand to investigate the claims made by

Ngāi Tahu. The rapporteur met with many crown officials and agencies, including the office of the Prime Minister and Cabinet, Te Puni Kōriki and the Office of Treaty Settlements, and attended a national hui along with other meetings with iwi and Māori organizations like the Treaty Tribes Coalition (Jackson 2006). Once again the timing of this visit and following report should be noted as it falls after the election and thus once again the timing, unfortunately for this movement's strategy, diminished the potential for impact.

The report was released in March 2006, and covered a wide range of indigenous issues but focused in particular on the Foreshore and Seabed Act. The findings of the report reinforced those of the UNCERD report and firmly stated that "in the view of the Special Rapporteur, the Act can be seen as a step backwards for Māori in relation to the progressive recognition of their rights through the Treaty Settlement Process over recent years (United Nations 2006 p15)." The report noted that the rhetoric around this policy was an alarming return to assimilationist approaches to indigenous people, and recommended that the Foreshore and Seabed Act should be repealed or amended, once again strongly suggesting that the Crown should resume negotiations with Māori.

The Government response to this report was similarly dismissive as with the UNCERD report. Both the Government and National, as leading opposition, belittled the report and suggested it was unimportant and failed address the complexity of the issue (Jackson 2006). Despite the wide range of government agencies and actors interviewed by the Rapporteur, the Deputy Prime Minister attacked the balance of the report and questioned its legal arguments. The opposition claimed that the UN had no business telling New Zealand what to do, despite the Special Rapporteur visiting under open invitation by the New Zealand Government, combined with the Government's continued participation within the UN and ratification of the CERD. This response is evidence that both leading political parties were closed to the criticisms of the UN in both the UNCERD report and the Special Rapporteur, and thus closed these points of access ability to channel Māori movements to influence the policy process. However one cannot underestimate the power of international embarrassment, and the importance of the country's international reputation. And many participants spoke of Ngāi Tahu's initiation of this strategy in attempt to create a point of access as an example of how innovative and resourceful Māori movements were (Participants 19, 20, 23 and many more).

Media

The media as a point of access is very similar in this policy cycle to the cycle of the Foreshore and Seabed Act. It is important to briefly reassess this structure here as the Special Rapporteur made mention of the media surrounding the Foreshore and Seabed Act during this implementation phase. Stravenhangen made note of how the political media took up the arguments that the public would like to see 'one law for all' and an end to the 'privileges' accorded to Māori from the government. Here he

noted that he was repeatedly asked by the media whether he agreed Māori had special privileges, and continually responded that there was no evidence of this and in fact the opposite was more evident (2006). The Rapporteur report also reflected a concern voiced in the UNCERD report of the “political atmosphere that developed in New Zealand (UNCERD 2004),” and further argued the media’s role in the 2005 election in maintaining and exploiting racial tensions.

The Special Rapporteur made such a point of the media’s role in perpetuating the racial tensions that it provided a recommendation that “Public media should be encouraged to provide a balanced, unbiased and non-racist picture of Māori in New Zealand society, and an independent commission should be established to monitor their performance and suggest remedial action (p22).” This recommendation noted the media’s closed nature towards Māori in this ongoing debate, and the diminishing effect this would have on the ability of Māori to utilize this point of access to influence government decisions and actions. Once again we can look to the agenda setting abilities of the leading political parties during the 2005 election campaign in how closely the media reflected their agenda and perpetuated their understanding of public opinion in a self-fulfilling prophecy.

Private Member’s Bill

In December 2006, Turia, the then co-leader of the newly formed Māori Party, introduced a Private Member’s Bill to repeal the Foreshore and Seabed Act. The proceedings of Parliament allow for MPs to post bills for consideration that get drawn from a ballot to allow opposition parties to have bills read by Parliament. This ballot system means that minority parties have a chance to introduce bills even though they are not in power. Serendipitously Tariana’s Foreshore and Seabed Act (repeal) Bill was drawn from the ballot on the tenth anniversary of her original election into Parliament (Sharples 2006).

When Turia’s proposed bill was released there was a mixed reaction as many Māori Party supporters had understood the repeal would vest ownership of the foreshore in Māori hands. The reality was that the repeal returned the legislation to the state of affairs at the time of the Court of Appeal finding. It was claimed that “many people had felt ‘let down’ by the bill and believed it would affect support for the party at flax-roots level (Young 2006, online article).” The reaction to the wording of this bill can be attributed to the fact that some Māori Party members campaigned on the goal to repeal the foreshore act and vest ownership in Māori, whereas others, including Turia, simply campaigned to return the legislation to the state it was before the Labour policy. Here we can see a tension between individual MP’s campaign promises and the overall Māori Party’s policy line. The differing political directions reflect variety in the ultimate desires of the various Māori movements. The lack of clarity caused confusion when the MPs were then asked to toe the party line. Once again Labour utilized the media in promoting an angle of the Māori Party letting its constituents down; Turia responded by accusing Labour of ‘Scaremongering’ (Berry 2006).

The Private Member's Bill, and the Māori movements against the foreshore policy, was given hope by 'cordial' discussions between the Māori Party and National. It was hoped that National would at least support the bill through to the select committee stages where the party could negotiate amendments (Berry 2006B). This support was however attacked by the government, pointing out the hypocrisy of National's support given their recent election campaign. National support never came and this was further attacked by Labour in the media, saying National had betrayed the Māori Party, and calling for the Māori Party to resign as it had 'fooled and failed its constituents' (Young 2007B). However despite this bill falling at its first hurdle it allowed the party to say it had tried (Trevett 2008), and would continue to try to represent Māori movements within Parliament.

It is interesting to note the widespread reports that the National Party was protecting its election potential by not supporting this private member's bill. Political commentators noted that it would not be in National's interests to deal with, and potentially finalize, an issue that could hold great election benefits: "The timing makes no sense for National. Why would it use the strongest bargaining chip it has with the Māori Party in Opposition, when the same chip could be used in 18 months to get them both into Government. It is the one single chip that National can play and that Labour cannot (Young 2007 online article)." This notion will be revisited during the discussion of the 2008 election, but does highlight the potential for movements support/strength to be taken advantage of to further political gain: here it seems the obstructed system was not due to National's complete closure to the issue, but due to timing and the political strategies needed under MMP to gain post-election bargains or coalition partners.

The First Agreement

The first agreement of customary rights held under the Foreshore and Seabed Act was signed on October 31, 2008. This first Foreshore and Seabed deed of agreement saw Ngāti Porou's rights to customary use of coastal areas affirmed. It was reported that this agreement was a difficult negotiation between the Crown and Ngāti Porou, who challenged government assumptions and positions throughout the process (NZPA 2008). An Interview participant (25) involved recalled this negotiation process as an interesting one where the iwi leaders made it clear they did not agree with the legislation, but felt the need to enter the process to get the best deal for their people at the time. Participant 15 noted "sometimes that opposition includes working with the policy in acceptance of its flaws, because it is going to be imposed on you anyway. The pragmatic side of Māori is that you make known your views, starting off with a moral stance and going into a political stance, but it is going to be imposed on you, and after that it is survival."

What these negotiations required was an open minded co-productive negotiation environment between the Crown representatives and the iwi leaders (Participant 1). This gentle handed approach

meant the iwi leaders were able to negotiate a rather innovative range of ways their interests could be recognized (Participant 15). Although an agreement was made, the challenge of implementing the agreement through the Courts and Parliament remained. Once again the timing of this event is very interesting as it came just a week before the 2008 general election. It was argued that the timing of this deed of agreement was a political attempt of Labour to minimize/placate Māori opposition in time for the election (Participant 29).

After the election when an agreement had been made between National and the Māori Party to review the Foreshore and Seabed Act, a Technical Advisory Group (TAG) was created to assist in this review. The TAG involved some key iwi leaders, and the relationships developed through the earlier agreement process saw both Ngāti Porou and Te Whānau-ā-Apanui's iwi leaders involved. Participant 25 noted that this advisory group helped to create a piece of advice that had fundamental influence on the final form of the Marine and Coastal Act. The influence of these iwi leaders over the final act was highlighted by participant 23, who pointed out the "similar wording between the Ngāti Porou Deed of Agreement and the Marine and Coastal Act." The participant exclaimed that the iwi representatives ability to negotiate the wording they had achieved within two government documents was 'monumental' with the inclusion of Māori wording and concepts that the government would usually shy away from due to their legal uncertainty. A participant who was involved in the negotiations process claimed that the advances made were due to the long process of building trust and respect between both sides of the negotiations, and made a final comment that this process had carved the way for better relationships between the Crown and iwi in later negotiations (Participant 25).

2008 Election

The 2008 election saw the National Party change leadership and solidify power as a minority government with confidence-and-supply support from the ACT, United Future and Māori Parties. This election ended nine years of Labour governance and created an interesting development for the Māori Party. The confidence-and-supply agreements made as a result of this election can be seen as important genesis moments for both the Marine and Coastal policy and the Whānau Ora policy process.

The Māori Party broadened their policy base after criticism came upon the failure of the Member's bill, with some calling the party a one-issue party (Trevett 2008). This criticism of the Māori Party was disputed by participant 24, who noted that the Māori Party's purpose was to bring Māori tīkanga into Parliament and politics, and although the Foreshore and Seabed Act was of high importance to the party, it was not their fundamental purpose for being. These criticisms of the Māori Party's limited standing saw the development of extensive Māori policies which included pushes to entrench the Māori seats, furthering of the Treaty of Waitangi in legislation, and advanced social policies. Most

notably, for this research, was the development of the Whānau Ora policy as one of the Māori Party's key campaign policies to expand beyond the Foreshore and Seabed issue that saw the Party's birth.

The earlier negotiations between National and the Māori Party that arose during the private member's bill discussions resurfaced during the 2008 election, and it would seem the earlier predictions of National maintaining the issue for election purposes were true. The foreshore bargaining chip was not the first choice for National; however, it was always dangled as a carrot to the Māori Party as a potential coalition partner.

In the 2008 election the Māori Party gained yet another seat and became a deciding force, or 'king maker,' in the decision of who would lead Parliament. The confidence-and-supply agreement made between National and the Māori Party to solidify government promised a review of the Foreshore and Seabed Act by the end of 2009 and provided Turia with ministerial positions. The Māori Party received great criticism for providing National with the support required to secure power given the party's foundation in Māori movements that National had been previously closed to. Participants 16 and 25 drew on their own parliamentary experience in noting that this decision provided the Māori Party, and therefore Māori movements, a direct line to the upper levels of decision making. Tapu Misa (2011) noted that "Everyone knew the minor partner would have to swallow a few dead rats. The only questions were: how many and how big, whether all that compromising and polite disagreement would pay off, and how long it would take the Māori Party's most outspoken MP to become restless."

Interestingly the Labour Party defined this election in terms of 'trust.' This defining campaign strategy is extremely relevant given the persistent theme that emerged throughout the research in terms of Māori experiences in this case study, as will be furthered in the conclusion. There was continually a mention of trust in the interviews, and participants often expressed how the Labour Party broke that trust when implementing the Foreshore and Seabed Act, and thus Labour's own definition of the election may explain why the Māori Party were reluctant to enter a coalition with them.

2009 Ministerial Review Panel

The confidence-and-supply agreement of the 2008 election saw the tipping point for opening of the Government to Māori influence. In keeping with the agreement, the Government initiated a review of the Foreshore and Seabed Act. In early 2009 a Ministerial Review Panel was appointed, this panel was chaired by a former high court and Waitangi Tribunal judge. Ministers from both National and the Māori Party worked together to select members for the panel and drafted the agreed terms of reference for review (Finlayson and Sharples 2009). The terms of reference given by the ministers outlined the scope and timing of the review however the panel were able to independently drive consultation and research. "Some considered the panel to be stacked in favor of Māori, making its ensuing advice predictable (Bess 2011 p92)."

The panel undertook hui with Māori interest groups, foreshore and seabed negotiating groups and held public meetings, along with consultation with key commentators on the issue. This consultation and review process involved an open invitation for written submissions and held 21 hui over two months for oral submissions. The panel received 580 submissions (and considered some further submissions from the original select committee) and of these 80% called for repeal, 15% favored substantial amendment, and only 5% favored the current legislation (Finlayson and Sharples 2009). Smith (2010) noted that “amendment would not satisfy the concerns raised by the United Nations or the Waitangi Tribunal (p8)” and the panel advised the Government to repeal the Foreshore and Seabed Act. It can therefore be argued that this panel’s process was very open, as not only did it allow consultation, but considered the advice of previous points of access utilized by Māori movements. This panel identified the failings of the previous legislation and identified a preferred option for combining a national settlement, local co-management arrangements and specific access and use rights.

Despite the open process of this panel, the purpose was simply investigative and advisory, and the final policy decisions would be made by the government. Following the release of the report the Government called for time to consider the advice of the panel. During this process all negotiations for agreement were placed on hold, and the Government stated they had no plans to re-enter negotiations whilst considering the fate of the legislation. They did, however, assure their commitment to honoring the deed of agreement made under the Act between the previous government and Ngāti Porou.

2010 Consultation Document

On the 31st of March, 2010 the Government released a consultation document seeking feedback on the replacement of the Foreshore and Seabed Act. This document held options for a possible replacement and outlined the Government’s preferred approach (Finlayson 2010). Essentially the Government presented four proposals, Crown national title, Crown absolute title, Māori absolute title and the new and preferred option of public domain. However as Aotearoa Peace Movement (2010) pointed out, there are very few, if any, substantive differences between this new ‘public domain’ and the Foreshore and Seabed Act, the only change being that this new approach would reintroduce the ability for Māori to go to court, whilst retaining the Māori burden of proof and overall government responsibility over the foreshore, therefore maintaining the assumption of Crown ownership (Jones 2010).

The consultation process for this document allowed once again for written submission and multiple hui around the country, resulting in 1600 written submissions. Alongside the public consultation the Attorney-General met in private with sixteen targeted stakeholders (e.g. port companies, farming, aquaculture) and in contrast only five iwi groups (Smith 2010).

On June 14, 2010, cabinet agreed on the direction of the policy; this would involve the repeal of the Foreshore and Seabed Act and replacement with the 'preferred option' of public domain (Finlayson 2010B). This legislation would create a non-ownership model of governance similar to other legislation where the government assumes responsibility for management over resources it does not own (Bess 2011). This decision was made at a meeting involving Cabinet, the Māori Party and the Iwi Leaders Group, which will be discussed below (Key 2010).

Some mention must be made of the structure of the consultation document. The wording of this document presented the illusion of an open consultation process, in that it presented some options for the repeal, and the Government's 'preferred option.' Throughout the course of the research the participants spoke of the many consultation processes as a means of participation in policy processes. The challenge with this particular consultation document is that, much like the rest of the policy, it only gives the illusion of being open. The reality is that the options given are not largely open for debate with the term 'preferred approach' denoting the Government's predetermined decision regardless of the consultation process. Political lines made clear that the option for Māori absolute title is out of the question, and both Crown national title and Crown absolute title definitely do not present any change in the nature of the legislature and therefore will not alter opposition to the policy, and finally the new and preferred option of public domain only buries the challenges for Māori under the token gesture of allowing court procedures- to silence opposition to the policy and 'resolve' the issue for the government. Ministry of Justice *Regulatory Impact Statement Review of the Foreshore and Seabed Act 2004: Post Consultation Decisions* identified that 91% of submitters in this consultation process disagreed with the Government's preferred proposal during the consultation process (Smith p10).

Iwi Leaders Group

By this point in time the Iwi Chairs Forum had developed a consultation and information relationship with the Government. In response to the this consultation document the Iwi Chairs Forum formed an Iwi Leaders Group to engage with the Crown on this policy and provide guidance information to iwi. This group became both an important actor and a point of access for Māori within this process of the repeal of the Act as the Attorney-General appointed this group of eight iwi leaders to operate as a 'sounding-board' for the government proposal.

The Iwi Leaders Group presented a paper that stated that "no problem can be solved from within the consciousness that it was created (Iwi Leaders Group 2010 p4)," they presented a solution to this challenge through Crown engagement with iwi leaders on the issue. The group stressed that they did not pretend to speak for all iwi and hapū on the issue, however they work to be a conduit for informing the government of iwi considerations. A participant (20) with vast experience of both working within government and outside government for iwi, discussed the successes of the Iwi Chairs Forum.

This participant discussed the way the Iwi Chairs Forum were able to become government informants by selecting those issues they wanted to be consulted on and strongly lobbying for participation within them. This targeted approach was combined with the Forum's targeted research and thorough understanding of the issue that allowed them to give practical advice. This sentiment was reflected by another participant (3) who noted, based on their experience with working within government, the Forum's ability to understand the way the government functions had facilitated their success.

The criticisms of the Iwi Chairs Forum by Annett Sykes (2010) who disputed their mandate, were refuted by participants from within iwi, who noted their strong mandate as iwi elected representatives, and their strong iwi support (20, 22 and 23). Iwi Chairs Forum and Iwi Leaders Group had already been questioned on their mandate in the media and community, they were also aware that many in their communities were dubious of any engagement with the Crown given past Crown actions and National's very unfriendly campaigns. They did however note that "if the Act is to be repealed, now is the best time to do it (Iwi Leaders Group 2010 p4)."

Despite the presence of both the Māori Party and the Iwi Leaders Group the legislation that followed the reports of the consultation document once again showed the ability for the government to create a barrier, and filter the effect of other points of access.

The Māori Party gave assurances that the legislation would respect Māori wishes and the influential National Iwi Chairs Forum conducted extensive discussions with the government to ensure that it would uphold Māori rights. In the end, the National Party government ignored both of them. It drew up legislation that was just as racist and discriminatory as the 2004 act and then looked to its coalition partner, the Māori Party, to get it past the inevitable Māori objections. (Mutu 2012 p 185)

This reflects once again the structure of New Zealand's opportunity structures and how other points of access can be closed if the government is closed.

A New Select Committee

The Marine and Coastal Area (Takutai Moana) Bill 2010 passed through its first reading in Parliament with 106 ayes and only 15 nays; this bill was opposed by the Greens, ACT and one Māori Party member: Hone Harawira (Hansard 2010). This motion pushed the bill through to the Māori Affairs Select Committee, to be reported back to the house by February 25, 2011. The Greens opposed the legislation on the assumption made in this legislation that Māori rights are derived from the Crown, which they claimed as unjust and placing Māori as second class citizens. ACT objected to the replacement of the Foreshore and Seabed Act, proposing repeal and a return to the state of affairs of 2003 leaving land claims to the courts to resolve. This was in the belief that Māori would be far less

successful in making claims under the old legislation than under any foreshore management act (Hansard 2010, p14008).

The select committee held an open call for submission on the Marine and Coastal Area Act from September 23 through to November 19, 2010. They received 4,455 written submissions, along with 1,520 form submissions. The Committee held oral hearings in seven centers (Blenheim, Christchurch, Auckland, Whangarei, Hamilton, Wellington, Tauranga) to hear 287 submissions. Although the committee had suggested they would travel to Invercargill this did not happen. The limited locations government consultations occurred in was repeatedly criticized throughout the interview process, participants from the south of the South Island especially noted this as a barrier to their participation in policy processes. This will be discussed further in chapter six when discussing the isolation effect of Southern Māori.

Takutai Moana (2011) released a summary of the Māori submissions made to the select committee. They analyzed the variety of Māori submissions and found only one group supported the passage of the bill unchanged, this group was Te Rūnanga o Ngāti Porou who sought for their rights to be recognized under their Foreshore and Seabed Deed of Agreement. All other Māori submissions argued the bill required 'drastic' amendments before they could support it, with half claiming this bill "was not materially different from the Foreshore and Seabed Act (p1)." Over half of the submissions also called for the bill to be put aside to allow for a 'longer conversation' to be had.

There were some advances in openness in this select committee process, compared to that of the Foreshore and Seabed Act's Select Committee, as some limited influence was visible. Pressure rose against a clause that customary rights could be negotiated between iwi/hapū and the government. This provision came under criticism as many feared 'shoddy' backdoor deals. Although the select committee did not make a substantive change to this provision, opposition was relayed to the government, and amendment made it that such negotiations would have to be passed through Parliament (Young 2011). This may be merely a formality to any majority government; however, it does provide for public debate and thus places a spotlight on such deals that will likely lead to more open and honest negotiations.

Māori movements mobilization within this select committee process also had some influence on the party lines on this policy. Labour pulled its support for the bill in mid-December citing the negative submissions to the select committee and confusion within the Māori Party rhetoric that alluded to a later revision. Labour stated that these developments through the select committee process showed them the Act "would not be an enduring settlement (NZPA 2010B)." The ACT Party, one of the Government's coalition partners also warned the Government to stop the legislation as a result of select committee opposition to the bill, the party noted that "everyone, Māori and non-Maori, is vehemently opposed to this bill (NZPA 2010B)," and thus cited their duty as Members of Parliament "to represent

the views of the people who elected them. . . they cannot, in good conscience, continue to support legislation that submitter after submitter does not want passed into law (NZPA 2010B)." ACT member Ms Calvert called for the Government to "withdraw the bill rather than continue to ignore its obligation to represent its supporters (NZPA 2010B)." Māori opposition within this select committee process therefore drew the support of the bill to within two votes and thus can be said to have had some influence on Parliament. The closed nature of the driving government, however, meant this influence was limited.

This closed nature of the Government was evident throughout the select committee and the process was widely criticized by Māori as being a farce. Metiria Turei claimed that "National and the Māori Party blocked the other select committee members from making any changes to the bill or even considering the 500-page departmental report on the bill (Radio Waatea 2011)." Labour members of the committee reported complaints that a 500 page departmental report was only given to them on the day it was to be debated, and only one day from the end of the committee, however it was evident other parties had received this report weeks earlier (Aotearoa Peace Movement 2011). The minority committee members also complained that they had been blocked from access to legal advice that was being given to the majority members (Report of the Māori Affairs Committee 2011). The process was likened to that run by the previous Labour government, others went on to criticize it as worse.

It's worse than what happened with Labour because at least Labour, to their discredit I should say, were open about what they were doing. Here, we were just at Waitangi. Why did not Pita Sharples in his state of the nation speech tell the Māori world that he had agreed over the weekend to allow this legislation to come back to Parliament on its second day this year? Why did he mislead the Māori world? (Sykes in Radio Waatea 2011B)

This misdirection was furthered by the Prime Minister John Key openly discussing possible amendments with the Iwi Leaders Forum at Waitangi just days before the bill was returned unchanged. The National and Māori Parties used their majority on the select committee to push the bill through unchanged despite almost unanimous opposition in submissions and by other committee members. Here the structure of the select committee, as discussed in the previous chapter, allowed for a government majority to be placed on the panel and thus ensured they could work under a closed process. Furthermore the Government displayed their ability to dictate when and how information was given to other members on the committee, limiting their ability to openly consider the information. The committee reported back to Parliament two weeks early with the recommendation the bill be passed without amendment; however, it unusually followed this with an attachment of the amendments recommended by the Ministry of Justice (Jones 2011).

2010 Special Rapporteur Return

In July 2010, the United Nations Special Rapporteur returned to New Zealand to provide a follow up on the previously discussed visit. This follow up report made note of the Government's attempts to address the concerns of the Foreshore and Seabed Act by repealing and replacing it with the Marine and Coastal (Takutai Moana) Bill. The report however advised the Government to consult with Māori to ensure the new act was in line with the Treaty of Waitangi (United Nations 2010). The Rapporteur noted the provisions to allocate customary rights as one means the Act may breach the Treaty. This report did not focus as strongly on the issue of the Marine and Coastal Act as the previous reports had done with the Foreshore and Seabed Act. The report however once again cited 'troubling' inequalities that persisted between Māori and Pākehā, and turned its focus to the nation forging ahead by utilizing the Treaty settlements processes. This mention of the previous Treaty settlements processes was also made during interviews and will be discussed in the conclusion. Finally the Rapporteur identified the Whānau Ora policy as a potential means of progression, which is important in the light of this thesis' second case study.

Mana Party Emerges

Much like the story of Turia and the rise of The Māori Party, once again a closed system and a frustrated voice of dissent led to the formation of a new political party. Harawira, of the Māori Party, widely criticized many of the National policies throughout this term, his criticisms stemming from his left wing ideologies and attempts to promote policies for his constituency. This policy line clashed strongly with both National and the rest of his Māori Party MPs who were firmly following their coalition agreement. Harawira voted against the Marine and Coastal Bill and at the time of the return of the bill from select committee Harawira was suspended from caucus. Sykes stated "it's now clear this week's suspension from caucus of rebel Tai Tokerau MP Hone Harawira was designed to silence a critic of the move (Radio Waatea 2011B)," alluding to his objection to the bill and the select committee process.

Here the political opportunities are not so clear cut as in the previous case, the Māori Party were created to carry Māori movements to Parliament and they achieved a position of great influence over this policy. However it still seemed the door was only slightly ajar, with National still calling the shots and closing the select committee off to outside influence. In this case it is an example of Māori being inside the tent but still not holding any fundamental influence on the policy outcome. This created frustration as although some progress was being made this was unsubstantial enough to encapsulate a wide variety of the underlying Māori movement's oppositions.

The Māori Party is supporting the new Marine and Coastal Area Bill because it restores the right of Māori to lodge a claim in the courts. Under an amendment confirmed by Finlayson yesterday, Māori will also be able to negotiate for customary title with the Government via legislation.

However, Māori against the bill, including suspended Māori Party MP Hone Harawira, are concerned the tests for Māori to win customary title will be so difficult as to be almost impossible (Hartevelt 2011).

As Harawira's opposition grew the Māori Party made the move to remove Harawira from the Party which led to his resignation in February 2011. This move was widely criticized as a move made to silence the questions of whether they had done enough for their constituents on the Marine and Coastal Area (Takutai Moana) Bill. This movement again shows the ability for party lines to close the party to Māori movements and limit the point of access to Parliament and influence on decision making.

The dumping of Hōne Harawira caused disquiet in the Māori community, and it was not only the Māori Party's failure with regard to the Marine and Coastal Area Bill that was troubling. The dumping itself was a clumsy affair that looked suspiciously like the Māori Party was carrying out the prime minister's frequently and publicly expressed admonitions that they get rid of him (Mutu 2012 p 187) see also (Mutu 2011a, 227-229; Francis 2010).

Much like when Turia left Labour it was well known that Harawira had a large enough base of support within his electorate to be successful in comfortably claiming back his seat under the newly formed Mana party in a bi-election in June 2011. One claim that was often made of Mana's success in the bi-election and subsequent 2011 election was that the party made advances as the Māori Party drifted to the center (Davidson 2011).

Marine and Coastal Area (Takutai Moana) Act 2011 Implementation

On March 24, 2011 the Foreshore and Seabed Act was repealed and replaced with the Marine and Coastal Area (Takutai Moana) Act. This once again marks the end of the political cycle of destabilization of an old policy at output/implementation, leading to new opportunities for input with the introduction of a replacement policy. In the previous chapter this was the end point of the analysis as the implementation began, however as this policy is still in force there is, as yet, no new policy cycle within which implementation of this policy can be discussed. As raised by many interview subjects (Participants 12, 15, 26, and others), the role of Māori within policy is not limited to formation and implementation, but there is a very important role in evaluation of policy. Participant 15 stated that Māori input is required in the three areas of policy formation, implementation and evaluation, in order to uphold the partnership or the Treaty. We therefore cannot end this policy analysis at the point of implementation as we would be missing the crucial discussion of the Māori role within the implementation and evaluation of this policy, and would overlook early signs of destabilization that are important for future analysis.

Once again Māori voiced their concerns with this bill and called for amendments. Opposition to the Act stemmed from the Māori onus to gain customary rights under the Act. Although the ability to

take claims to the Courts was returned under this act, it was evident that the fundamentals of the Act remained the same and Māori had been stripped of their cultural marine and coastal areas. This act was discussed by Participant 15 as a violation of Māori birthrights to mana tangata, mana whenua and mana wairua, as this act enforced the Crown's the ability to distribute rights that preceded the Treaty and are not derived from the Crown therefore cannot be distributed or owned by the Crown.

Claims Under The Act

Given the major challenges of this Act could be ironed out in implementation this phase of the political cycle would become very important in the longevity of the policy. It appeared that appropriate practices for allocating Māori customary title would have dampened the effect of the Act on Māori. However these legalities were hidden from the opposition during the select committee and although the Iwi Leaders Groups had made many unheard attempts at advising on this nature of the policy, the formation of the policy remained closed to Māori influence. Despite this act returning the rights of Māori to appeal to the courts, the strength of intent within this legislation would mean court action would have limited results as the courts are tasked with interpreting not redefining the law. This would mean that Māori could not destabilize this policy through the previous strategy as the Act made it very clear what determinants were required to acquire customary rights.

This return to the same assimilative strategies that saw the genesis of the foreshore policies is interesting in the way the policy has come full circle. The potential for these court cases to once again reignite the policy cycle it tempered by the fact that no body politically wanted to touch it again. Furthermore the Marine and Coastal Area (Takutai Moana) Act 2011 had designed the policy output structures to be more closed to Māori input.

There was political confusion between the governing parties as National saw this foreshore and seabed matter now closed, yet the Māori party expected future reviews to iron out the issues: "Even the bill's supporters could not completely agree; Attorney-General Chris Finlayson said the matter was now finished, but Māori Party co-leader Tariana Turia expected the law to be reviewed in the future (Cheng 2011)." The Māori party however deemed the repeal of the 2004 Act and the return of Māori access to the courts a success and stated they had 'honored their word' to the Māori movements that supported them (Wilson 2011). Turia stated that "The challenge now is to test this new law. The message we have been getting from some iwi leaders is that now that the right of access to the courts has been restored, case law in customary rights may be politically achievable (Wilson 2011)." Turia urged iwi and hapū to seize the opportunity and take their claims to court to seek customary title; yet, as almost every person interviewed expressed, this solution was inadequate, and Māori should not have had to go to court to battle for title that the legislation should have granted. Māori should not have had to bear the cost in terms of their, wairua, tikanaga, time, energy and financial resources because of the policy. Participant

15 noted “the frustration of any Māori policy related or any Māori organization, including a person wanting to evaluate these things, is: that the Crown assumes that it is the beginning and the end of any process. That fundamental proposition of the crown is abhorrent to Māori.”

This Act only allowed applications for customary rights to those groups who could prove their claim to the area through uninterrupted use or occupation since 1840. There are however countless examples of iwi and hapū Māori groups who do not fit within this category but still express claims to land and customary activities. The onus of proof places unreasonable restrictions to those iwi and hapū who would be eligible. This law in effect solidified past injustices, be they due to Pākehā confiscation, Crown rulings or other non-Māori initiated interruptions. Harawira called the bill a ‘fraud’ during its formation for this exact reason, claiming “98 per cent of Māori will not be able to meet the threshold to claim customary title (NZPA 2010).”

Māori were given six years from the commencement of the Act to lodge their claims with the Courts or register interest to negotiate with the Crown (Beverley *et al* 2011). This timeframe placed pressure on iwi and hapū to formulate and fund a cohesive claim. These claims require a sophisticated legal approach under the strict legal guides of the Act that were arguably placed to limit Māori success at receiving customary rights. This strain on iwi and hapū resources does not come in isolation and often participants noted how Māori collectives were forced to prioritize between their own local initiatives, Waitangi claims that were already underway, and this new strain on time and resources. One of the most common responses I received by smaller iwi and hapū was an expression of being stretched too thin by such processes, and often it was expressed that some claims or initiatives had to be delayed or abandoned due to a lack of personnel or finances.

The Marine and Coastal Area (Takutai Moana) Act 2011 allowed for two means of achieving customary title, through Crown negotiations and via the Courts. There are different challenges that arise with both means; firstly the previously stated high expense of a court case can be seen to limit those iwi who can pursue this means; secondly the process of negotiation can be long and nuanced. Participants spoke of the nature of negotiations with the Crown. They recalled how Māori had to force their way into the discussions through the court battles, as discussed earlier, however, once they had forced their way in the entire nature of the discussion had to change and this is difficult for both sides. Participant One speaks of this by stating:

The final point is that these things are always resolved by negotiation. You can’t negotiate your way into the start of it, because no one is incentivized to go there, so you’ve got to use all sorts of mechanisms to get them to come to the table because they’ve got no choice, then you negotiate your way out of it. So the irony is that then it falls to negotiation, then you need information on both sides, and importantly, you need good will – which is often scarce because

you've just been through a grueling court case and been in opposition, so everyone's got their dander up and you've got to try and settle all that and have a reasonable conversation and get to a principled outcome. And what that means in the context when it has never been done before. Now you've got these really novel problems which no one has encountered, and that no one can conceive of in this short period, which previously was written off. Now you know you've got to come up with a solution to a problem you've only just worked out is real, you don't really have precedent. (Participant 1)

Many participants spoke of the importance of interpersonal relationships when it came to negotiation. They discuss the importance of selecting people who are well informed and educated in the history and desires of the group for whom they are negotiating or consulting, yet this person must also be personable to illicit open discussions and negotiation. At times those who want to go to the table were those who had battled long and hard, who had 'a lot of skin in the game,' yet these people were often not the best to send to negotiations. This most definitely does not mean someone who will always agree with the government, however it does require those who will disagree respectfully and calmly. Participants often spoke of the process of selecting people who were well informed, but also importantly those who would adapt to the nature of negotiations. These people were placed to become convenient informants for parties, officials and MPs and thus increase their chances of both success in the case at the time, and to be recalled for future advice or consultations.

Passive Resistance

As identified above, there are limitations on iwi and hapū under the new legislation to place claims or pursue legal options. The narrative that developed as people's discussions turned from battling the Crown for a better future to a loss of faith in the Crown, was one of Māori following their path despite government policy. Much like that of protest movements, this development was born of a closed system and a lack of alternative actions.

This resistance was not a widespread organized collective action, but individual localized approaches that developed concurrently across the nation within iwi and hapū. This was by no means an acceptance of defeat, and Māori continue to fight this legislation; it was, however, a means of localized groups moving forward with their tīkanga, in spite of policy. Countless iwi and hapū leaders stated that they did not let this policy disrupt their history and practices, and continued those actions they saw as their tribal duties regardless of the policy. The challenge is that this defiance of the law is only a small scale solution, one that enabled localized continuation of tīkanga and kaitiakitanga. This action can be seen as a way of continuing 'in the meantime' until the political opportunity structures re-open and signal chances for this movement to once again have success in changing the legislation. Ka whawhai tonu rātou, Māori continue to oppose the legislation, and as Participant 15 stated, that the "moral

opinion is that a bad law doesn't get better, and the Māori proverb on the 1980s and 1990s is that age doesn't make a bad law morally right, it is still bad, and therefore needs to be opposed no matter how long it has been in place."

Summary

The above chapter discussed the rapid turnover of policy from the Foreshore and Seabed Act 2004 to the Marine and Coastal Area (Takutai Moana) Act 2011. This rapid turnover was seen to have occurred due to the persistence of Māori social movements pressuring policy change through the newly formed Māori Party.

This policy cycle included two elections that provide analysis of the impact of MMP on representation of social movements. The 2005 election was highly controversial and saw minority parties, other than the Māori Party, lose their seats to the two majority parties. What this election result shows us is that in very contentious/pivotal elections the nations voters returned to the familiar understanding of a two party FPP system. This minimizes the effect the minority parties can have under MMP and perhaps accentuates the limitations of the electorate in adjusting its understanding of governance. The emergence of the Māori Party, however, indicated Māori understanding of their need for representation rather than just representatives and a push back against the previous Labour dominance of the Māori electorates.

The results under MMP in the 2008 election saw parties enter into innovative post-election bargains and coalition agreements to secure a government. This agreement not only opened the door for Māori input into the evaluation of the Foreshore and Seabed Act, but it also placed Turia in a strong position to shape and drive the Whānau Ora policy, as will be discussed in the following chapter. This direct point of access into the Government as the decision maker was argued to have opened the policy process to Māori influence; highlighting how government turnover can give MPs like Turia their mandate, or introduce political parties like the Māori Party into the understanding of government and therefore change the nature of the input process. This highlights how government turnover can open potential input structures that were closed by previous governments.

The limited success of the private member's bill highlights the potential for social movements to be taken advantage of to further political gain: here barriers were put in place not due to Nationals closure to the issue, but due to timing and the political strategies needed under MMP to gain post-election bargains or coalition partners. This identifies the dependence of minority parties on the larger parties to give the strength of numbers required to introduce and influence legislation. As we saw, without the support of either the opposition or government, minority parties are limited in what they can achieve in Parliament.

Similarly, social movements require aggregation within majority parties to achieve substantial policy change. The limited policy innovation in the replacement act and the persistence of a Māori movement in opposition to the Marine and Coastal Area (Takutai Moana) Act 2011 identified the persistence of barriers to input. This raises some interesting questions that occur under MMP. The introduction of MMP came as a result of public outcry against failed election promises; however, under MMP it is not uncommon for political parties to have to make some fundamental divergences away from their campaign promises to secure and maintain power. This case study saw the majority party dropping some of its campaign policies to secure support from the Māori party, similarly, the Māori Party also had to make concessions to their policy demands.

The emergence of the Mana Party can be compared with the emergence of the Māori party in the previous chapter as the Māori Party and Māori electorate seats were challenged by the same constraints as the larger political parties, with party discipline and election agreements limiting the Māori Party's ability to aggregate Māori movements into the policy process.

The consultation and select committee processes of this policy cycle once again identified points of access that only provided the illusion of being open. As we saw these points of access were filtered by the government, and despite the incorporation of the Iwi Leaders Group and the Māori Party, the National government was identified to control and dictate the policy progression. This introduces an issue that few political opportunity theorists discuss, being that even those structures designed and created with the purpose of being open can in fact have filters and barriers put in place by the Government that close the point of access.

This policy process can certainly be argued to have provided more points of access for Māori movements within the policy process. These points of access can be argued to have provided sufficient access to allow participation through assimilative rather than confrontational strategies. However, the limited policy innovation and structural pressures leading to the emergence of the Mana Party are indicative of the persistence of barriers that once again were seen to stem from the government.

The output of this policy cycle identified the continued objection of Māori communities to the introduced policy. These movements continue in two strategies, the return to assimilative litigation and licensing strategies between the Crown and those iwi/hapū who qualify under the claims process, and the emergence of passive resistance in terms of Māori communities continuing as they had before 'in spite of' the policy. These strategies both are indicative of the weak output structures of New Zealand. The return to litigative strategies identifies ironically similar political opportunities structures to those which saw the beginning of the foreshore policy. For those who are shut out of the courts by this policy, passive resistance occurs due to Māori identifying their ability to continue 'in spite of' the policy as implementation structures are weak enough to allow such actions.

The following chapter will discuss the emergence of the Whānau Ora policy. Once again this chapter will discuss the pressures of Māori social movements on the implementation of previous policies and how Māori social movement's strategies interact with the political opportunity structures in attempt to influence the policy process.

Chapter Five

Whānau Ora

This chapter will discuss the Whānau Ora policy process that is an interdepartmental policy based in social welfare, health and inequalities. The previous chapters discussed the rather explosive policy development of the foreshore policies. Despite the relative silence in comparison, the presence of Māori movements are again argued to be present in initiating the policy process of the Whānau Ora policy through mobilization and destabilization of the previous policies. There are some fundamental differences between the two policy fields of this thesis that need to be discussed.

First the foreshore and seabed policies were about ownership of natural resources and thus are collective interests, whereas social services issues are broader and tend to be about individuals first before collectives. In terms of the Treaty of Waitangi the foreshore and seabed debate is about article two Treaty rights in terms of property right, but article three in terms of due process, while Whānau Ora is about article two rights in terms of decision-making and article three in terms of state devolution of services. This creates a challenge in mobilization and entry into the discussion as the formations of collectives are not pre-established. Under the foreshore and seabed policies the government found it easy to identify iwi and hapū stakeholders.

Foreshore was absolutely iwi centric, it was about iwi leading that engagement, and in my opinion that is absolutely right and proper because it was about land interests. There is no pan-Māori role when it comes to land interests, it is rohe specific, it is iwi specific. Whereas the Whānau Ora engagement mechanism wasn't iwi centric, it did have an iwi representative component but it also had a kind of Māori thought leader representative component (Participant 20).

The preexistence of Māori social groups surrounding social policy did however exist before the mobilization surrounding the Whānau Ora policy. The Māori renaissance of the 1970s and 1980s can be argued to be one of the Māori communities' largest collective mobilizations and the 'Māori thought leaders' as identified in the above quote, emerged strongly in this period. Many Māori policy workers and groups like the Māori Nurses collective remained from this period. Just as the foreshore policies mobilized iwi Māori communities and saw preexisting iwi collectives adapt to take up the cause, the Māori collectives behind the Whānau Ora movements can be argued to have preexisted within the communities and to have collectively mobilized around this movement.

Secondly a participant who was involved in both cases noted finding greater challenge in organizing people and MPs to mobilize for social issues than for the foreshore and seabed debates (Participant 11). The fact that this policy process was relatively silent in its emergence leads to our hypothesis that this process is expected to be comparatively open in incorporating Māori influence. This

can however be explained due to the difference between the nature of the two policies. Given that the foreshore policy was about the ownership of natural resources, and in effect was something being taken away, Māori opposition was much stronger and more visible. In contrast the Whānau Ora policy is based on distribution of funding and social welfare and as a result Māori movements in this policy field are likely to be far more silent and assimilative. This will in turn make identification of Māori movements much harder in secondary sources, and thus a strong dependence on participant's information is needed within this chapter. The direction and mobilizing motive of this policy can be argued as Māori desires to address the power and social inequalities of New Zealand.

This chapter will again begin to discuss Māori movements in terms of input into the deterioration of the previous policies and development of the Whānau Ora policy. This chapter will identify how Māori movements attempted to gain access to the policy process and the subsequent influence the movement had over decision making. Unlike the previous chapters, the Whānau Ora policy did not develop out of one policy or even one policy field. This is an example of how a dense political environment means that at times policies do not disappear or collapse but pieces of policy can be redefined and incorporated into new conceptualizations of both the issue and the solution.

Māori Movements at the Output of Previous Policies

Although the final policy of Whānau Ora was developed as an interdepartmental one there are some key developments and Māori attempts at influencing previous policies' output phases that can be seen to form the foundations of this policy. Thus we will look at Māori movement's attempts to influence the output phases of these sectors to discuss the emergence of the Whānau Ora policy. As Boulton et al (2013) noted: "to understand the Government's most recent model, it is first necessary to understand the broader public policy changes which set the scene for the emergence of Māori health service provision, which provide the context in which this latest model has been introduced." (p20) Along with these health service policies as a social issue and a Māori based approach, the Whānau Ora policy can be argued to emerge out of the Ministries of Social Development, TPK and Health.

The term 'whānau ora' was first promoted in policy by Mason Durie in 1994, as a means of connecting family and good health. By 2003 political dialogue had adopted the Māori notion of whānau ora, stating that "the ultimate aim of He Korowai Oranga is whānau ora (NZPA 2003)." Discussions turned to health needs being interdependent with wider social, cultural and economic aspects (Kidd *et al* 2010). One of the largest challenges has been the varying definitions of what whānau ora means, with each locality distributing and aiming for different goals. "Whānau ora has been used as a guiding principle and value, a goal, and in some instances it has been used to describe a type of health service being delivered to local Māori communities (Kidd *et al* 2010 p 163)."

Mobilization

Throughout the policy developments and implementation discussed below there will be mentions of attempts or calls to uphold the principles and obligations of the Treaty of Waitangi. This strategy is utilized by Māori movements through the media and public debate to emphasize the place of Treaty of Waitangi within public policy. What this means in the context of social policy is the obligations of equal citizenship, and the claims *tino rangatiratanga*. Māori movements arose to push for equal citizenship and pressure led to a change of the ‘mainstreaming’ approach of equal opportunity, which in reality was not equal for Māori, to an approach of looking to achieve self-determination and equal outcomes through providing Māori with that which is accounted under the Treaty as *tino rangatiratanga*. In social policy *tino rangatiratanga* is argued to be achieved through control over the development and distribution of Māori services.

Unsurprisingly given the parallel timing of the two policy fields of this study, the emergence of the two movements can be tracked to similar decentralization reforms. Similarly to the processes of reform that occurred during chapter three, the concurrent international push to contracting-out, privatization and commercialization (Boston et al 1996), and the internal debates of New Zealand’s mono-cultural health system (Boutlon et al 2013) led to massive restructuring of the health and social sector. In conjunction The Royal Commission on Social Policy, 1988, noted the growing demands for Māori to manage and deliver their own programmes, and a push back against mainstreaming approaches, as catalysts for change.

Before the development of *whānau* based policies, New Zealand underwent a radical restructure of its health sector, beginning with the Area Health Boards Act in 1983 and continuing through to the New Zealand Public Health and Disability Act (NZPHDA) in the year 2000. These major restructures of the publically funded health sector saw the creation of 21 (now 20) District Health Boards (DHBs) that decentralized health care through the outsourcing of health purchasing and funding. These reforms were created in the same political environment as the 1991 Resource Management Act (RMA) discussed in chapter three, which saw a policy shift towards decentralization.

The mobilization effect of the weakened and decentralized output structures is further enhanced in this case by the newly introduced policies’ emphasis of the Treaty. The health reforms introduced a new focus on trying to meet the obligations of the Treaty of Waitangi, with each of the DHBs individually charged with producing a Māori health plan (Robson and Harris 2007).

These policy developments signaled more opportunities for success and more points of access for Māori and can be argued to have increase mobilization of Māori movements surrounding health services mobilized. The revised health sector allowed Primary Health Organizations (PHOs) to become a ‘powerful feature’ that all had to produce Māori health plans with NZPHDA (2000) specifying at least

two Māori had to be on each of the 21 health boards. This provision was introduced as part of the Health policy's increased emphasis on the Treaty (Cumming *et al* 2003), stating that each board must maintain 'partnership relationships' with mana whenua in its area (Young 2000). These mechanisms provided points of access that were built to channel Māori participation into the policy development and implementation of each locality.

The growth of Māori health care providers was monumental from 1993 to 1995 where New Zealand went from 25 to 185 organizations, while today there are some 300 providers. Prior to the reforms, only one marae based General Practitioner was in operation (Crengle 2000). The increase in the Māori health care providers was argued by Participant 13 to be due to the restructuring of the health sector creating more openings for Māori.

Although this process involved policy changes and restructures like the previous policies, these did not come from the pressurized deterioration of policy and court involvement. These are argued to be born out of national recognition of Māori inequalities, international movements of indigenous awareness, identifying local level improvements and initiatives to address this issue. This seemingly open process did, however, have its challenges and despite a wide range of Māori involvement on health boards, there were still barriers to participation. Despite the Act's significant focus on the Treaty of Waitangi this was not always enacted or enforced at the DHB level. The decentralization which introduced the openings for Māori to participate also decentralized responsibility and accountability.

Māori collectives seized the openings and placed policy workers within the DHB's (Participant 15). Sadly when Māori were included within boards this too became a challenge to Māori participation. Often participants discussed the exclusion that occurred when decision making groups had in house Māori advisors, and how this may act as a barrier to the participation of those Māori who are not within the tent. Those DHB's that did include Māori representatives were argued by participants to remain closed to wider external Māori movements. Participant 13 discussed this barrier with the example of North Health there were protest groups of Māori who wanted to be involved in the policy development or funding to create providers in their own communities.

Because they had such a big Māori team inside that organization, because they had tribally mandated representatives from the Treaty Tribes working inside this organization, they honestly felt they had done the best, and were being really appropriate. Then you've got John Tamihere coming from West Auckland and quite correctly saying, 'what are you talking about, there is a whole lot of Māori here, they're Māori but they won't associate with their marae for whatever reason, they don't wish to be represented by Ngāti Whatua, Tainui or Tai Tokerau, they wish to have their own representation, they wish to have their own health service provision, and they wish to create their own tikanga and kaupapa' (Participant 13).

This example again emphasizes the variety of Māori communities that exist within movements, and highlights the inability for the two allocated spots to encapsulate this variety. The above example speaks of the development of a division of urban Māori with no tribal affiliation who began to feel excluded from this policy development (Knight 1999). Tensions grew between Labour MPs over the uncertainty of urban Māori representation, with iwi oriented MPs butting heads against MPs representing urban Māori bases such as the South Auckland electorate (Young 2000). This discussion is an example of urban Māori without tribal affiliations feeling excluded or not represented by iwi Māori representatives; however, participants spoke of other examples of different Māori movements within sectors feeling similarly excluded.

The provisions of the health sector restructures that placed an imperative of having 'at least two Māori' as a means of promoting Treaty values of partnership and equal citizenship was a step in the right direction for opening the decision making process to Māori input. However the reality was that this became a limit and a barrier to the number of Māori who could gain access, as it justified Pākehā claims they had appropriate Māori input when in reality they were maintaining minimal representation.

Waitangi Tribunal

Once again the barriers to participation in decision making processes saw the now mobilized Māori movements implement assimilative strategies of going to the courts. Te Whānau o Waipareira, an urban Māori organization of West Auckland, took their claim to the Waitangi Tribunal, due to the failings of the policy to treat urban Māori organizations with the same treaty respect as tribal Māori. The Crown stated that "the community itself was so different from a traditional tribe that the guarantees in the Treaty did not apply to it (WAI 414 1998 p10)." The Waipareira claim argued "not to obtain an advantage over others in competition for limited funds, but to seek to have their relationship with the Crown established on a proper Treaty basis, and to ensure that structural arrangements and policy directions can adequately achieve appropriate outcomes for their community (WAI 414 p213)."

The Tribunal did not uphold Waipareira's claim to be seen as an 'iwi authority' for the purposes of the Department of Social Welfare funding; however, the Tribunal did note their rangatiratanga and need to protect their own tīkanga and taonga as they were responsible for implementing and administering programmes (Barrett and Connolly-Stone 1998). This sentiment was clear in the interviews as participants often reinforced the importance of such Māori organizations in caring for their communities but strongly affirmed these are not iwi, and are most definitely not Treaty partners.

In May 1999, the Government acknowledged Waipareira as having "official iwi status for the delivery of social services" (Knight 1999) as a result of Tribunal claims for rangatiratanga. Yet, again the government response showed its ability to selectively listen to the Waitangi Tribunal as an input into decision making as they ignored the Tribunal's definition of iwi status and tino rangatiratanga. The

government has continually struggled with writing Māori/Treaty terms into policy and for government purposes of administering policies it could be argued the two look the same, and thus iwi status was conferred on this group. Therefore the Tribunal's affirmation that they should not be deemed iwi was filtered by the government. Despite the Government's inability to grasp Māori and Treaty concepts, the result meant that by the time of Whānau Ora discussions, urban Māori groups, in particular NUMA, had been established similar to Treaty Tribes and Iwi Chairs, as a point of input for government discussions, considerations and consultations.

Te Puni Kōkiri: Closing the Gaps Policy

The Closing the Gaps policy is an important input into the Whānau Ora policy development as it began an inter-departmental discussion of Māori policy. Once again the international political environment's discussions of racial inequalities complimented national emphasis of the Treaty of Waitangi and equal citizenship of Māori movements. The 'Closing the Gaps' policy began its life as a 1998 TPK report on the disparities between Māori and non-Māori that was conducted as a result of the 1991 Ministry of Māori Development Act, requiring TPK to monitor Māori public services.

This policy development had little involvement from Māori, aside from those working within policy at TPK, who were discussed by participants as working as government officials and were therefore limited in their ability to provide input as Māori voices. The policy development was triggered by Māori mobilization pushing for equality and respect for the Treaty within policy; however, government conducted this policy process as a closed investigation into Māori outcomes. One participant reflected on the long development of the policy discussions that resulted in Whānau Ora stating; "it has been years and years of talking, with small numbers of people attached, and not much happening on the ground (Participant 1)."

The Labour Government turned this report into a campaign issue and policy grouping, creating a Closing the Gaps Cabinet committee. The Closing the Gaps policy incorporated 72 policies, 39 of which were aimed specifically at Māori (Young 2000B). This policy saw TPK monitor Māori programs across many government departments and set the precedent for this under the future Whānau Ora policy. Although this policy was made a flagship policy of the Labour Party it was later disowned in 2004 when it faced criticism (Collins 2014).

This policy was focused on Māori outcomes and interdepartmental improvements of these, but despite its Māori focus there was little Māori input. Māori input was left to individual departments. Here a challenge lies in having a focus on Māori outcomes, without Māori input at formation and implementation of programmes. A participant likened the development of this policy process to that of the colonial gaze of earlier indigenous studies, and identified this policy's inability to understand Māori imperatives and way of life (Participant 8). Another participant (6) noted Māori distaste for the policy as

it positioned Pākehā as the measuring point of Māori successes, without discussing the generations of power inequalities that caused the 'gaps'. However this policy development did identify Māori desire to 'manage and control their own development,' (Turia's Closing the Gaps speech June 7, 2000).

Development of the Whānau Ora Discourse

The development towards decentralization and increased emphasis on Māori participation within decision making processes created enough opening for the development of an overarching Māori Kaupapa. This dialogue slowly developed into a discussion of whānau ora, where services were no longer targeted at individuals but at a family or community based approach. This Kaupapa can be argued to have come from those Māori service providers who emerged in the early 1990s and the flow of information channeled into the various social service departments. One participant recalled in the late 1990s when TPK and the Ministry of Health funded these organizations to draw up their best model of practice for policy analysts and how these later streamlined discussions of the best practice for Māori health care (Participant 13).

This may seem to have been an open process however Crengle noted the feelings many participants reflected: that "the providers pass significant amounts of information on to the funding agency, however many feel that very little information is returned from funding agencies to the provider organizations (Crengle 2000 p48)." This one sided information flow was reflected in the interviews and was criticized as holding these health agencies back and preventing the development of services (Participants 2, 8, 21 and others). Furthermore the flow of information coming out of the Government was so closed that PHOs did not have access to local epistemological and demographic information that could have advanced their services (Participant 13).

Despite its criticisms of western appropriation of Māori practices and one sided information flow, this process did have a high level of Māori participation and influence over the formation of the policy. The argument participants made here contradicts the previous chapter's discussions of the inability for Māori public servants to impact policy.

By 2000 most organizations were talking about whanaungatanga, manakitanga and rangatiratanga and a few were talking about whanau. The discussions in the 2000 period, when they were putting HKO together, there were a lot of informal conversations going on in the background and policy analysts who were working on it from the Government and from the health sector were Māori anyway and that's what made a difference (participant 13).

What this participant argued was that the large number of Māori public servants who had experience within Māori service providers facilitated the aggregation of the grassroots information. These policy workers were able to interpret and digest the Māori Kaupapa in a way Pākehā government officials could not, as argued above in terms of the Tribunal ruling. Other participants however noted

this influence to be due to the fact that the Māori movements and rhetoric reflected by public servants was parallel to the policy directions of the government, and other Māori movements did not oppose this policy direction as it was moving policy in a direction that aligned with traditional *tikanga* (Participants 1, 14, 15,).

The policy discussions of this time were noted by participants to have been facilitated by the pan-tribal nature of the project. There were few cases of tribal infighting or historical baggage that allowed Māori to provide a united movement with clear direction. This united front could pressure the Government and provided limited ability for political parties to pick holes in the policy claims. The policy was not exclusive of non-Māori and thus the development of *whānau ora* rhetoric within the He Korowai Oranga policy did not face Pākehā objections, allowing the Government line to channel this Māori movement. In 2002 He Korowai Oranga was introduced as the Māori health strategy, focused on reducing inequalities through developing *whānau*, *hapū*, *iwi* and other Māori communities (NZPA 2002).

Participants reflected the mixed successes of Māori influence on the development of He Korowai Oranga, noting the achievement of incorporating Māori terms and dialogue in the policy framework (Participants 15 and 25), but criticizing the appropriation of this implicitly Māori approach into something many of saw as a Pākehā policy (Participants 5, 6, 21). The participation of Māori had seen their terms and modes of best practice Europeanized into European policy goals and directions, given the foundational policy of ‘Closing the Gaps,’ holding this Pākehā outlook of comparing Māori to a European lifestyle (Participant 23).

By 2003 political dialogue had turned to the notion of *whānau ora*, stating that “the ultimate aim of He Korowai Oranga is *whānau ora* (NZPA 2003).” With local Māori health care providers creating and administering their own definition of *whānau ora* the process at the flax-roots level was very open to Māori input, channeling guidance from *kaumātua* and local Māori groups to help determine what a local definition of *whānau ora* might look like (Kidd *et al* 2010 p 163). Participants reflected this openness and often commended their local governance body for allowing and encouraging their independent service development (Participants 19 and 22). Other service providers emphasized that the open process at the local level stemmed from the trust the communities had in the providers (Participants 8 and 21).

Challenges to Māori representation, however, persisted within more mainstream health care providers found in localities with low Māori population, who did not have such an open channel of communication and were therefore slow to implement changes to open their health care to Māori within their community (Participant 3). This can be attributed to the one way flow of information at this time with a lack of an overarching clear framework from the government departments, and limited information from above (Participant 2). This meant that though some advances were made in those

communities with active Māori health care providers, those that had not formed them in the 1990s did not receive this information or any imperative to develop better practices. Therefore Māori movements could be seen to have effect at the local level where they were mobilized and present, yet those communities where Māori comprise a small part of the population continued to have limited Māori input and effect.

Whānau Ora Policy Development

Māori movements in health policy had a large collective of Māori nurses who were mobilized and active in attempting to influence health care policy development. It is firstly important to note Minister Tariana Turia's history within the Māori nurses collective; Turia trained as a nurse and had participated in this group despite not finishing her nursing training. This history was cited as a key to her legitimacy by participant 13, as Turia was known and trusted by this well established network of Māori within the sector. Throughout Turia's ministerial history she often attended the Māori nurses hui and allowed them to inform her (Participant 24). This network was said to channel Māori input into the formation of the initial health policies that Turia was involved in by multiple participants.

Whānau Ora was Turia's flagship policy and its development contained many points where Minister Turia proved to be a point of access for Māori input into the policy. Participants reported trust in Tariana Turia's ability to channel the voices of the Māori nurses into the policy development of the He Korowai Oranga and the origins of Whānau Ora:

Māori by and large were real happy with it, even though there were the select few that were brought together to be the people that were deciding how it would happen, for once you didn't get Māori going 'hey I didn't get a seat at the table that's not fair,' they were just going 'yeah that's cool, yup whānau ora we like that, yeah He Korowai Oranga that's all working,' and that came down to the huge respect that everybody had for Tariana Turia, not only politically, but more especially because she was female and had started training as a nurse. She hadn't finished her training but she trained at the time when most of the women who now head up the Māori health providers were training as Māori nurses, so they knew Tariana and they trusted her, so they didn't seek a seat at the table; They felt that Tariana knew what was required to create a Māori health provider, she was from a Māori nursing background, they knew her, they trusted her from that perspective, and so the political side was just like 'oh well she knows what she's doing then, we'll leave that to her and we'll leave the policy stuff to her.' It was just a complete trust fest. (Participant 13)

Minister Turia's roles within the health, Māori affairs, and social services sectors, where she held Associate Ministerial roles under the 1999 Labour government, were responsible for providing Māori movements with access to the initial development of the Whānau Ora policy. Although these roles did not provide Turia with a Cabinet seat they did allow for a point of access into the decision making

processes of the Government to channel the voices of the Māori community. Nevertheless, there is a variety of tribal and regional differences and Turia's role should not be over stated for all Māori voices. She did however consistently attend hui and remain in touch with the wider Māori movement. The channeling of Māori input through Turia into the institutional mechanisms of policy development can be attributed to maintaining assimilative strategies over the confrontational strategies of the foreshore.

This point of access to influence the Whānau Ora policy progression, however, was greatly challenged during the time of the foreshore and seabed debate as Turia was removed from her roles in government ministries due to her dissent. Many criticized Turia's actions over the Foreshore and Seabed as she prioritized this case over her potential position to make changes in many other Māori policies: as earlier noted Helen Clark called this 'an astonishing lack of perspective' (Berry and Tunnah 2004). Turia's staunch position over the foreshore, however, solidified her Māori support as previously stated, and created the Māori Party around her. The subsequent elections and coalition bargains placed Turia and other Māori Party members in arguably stronger positions to influence this policy, and channel Māori social movements into government decision making processes.

The limited resources of Māori collectives and communities can also provide an explanation for why stronger movement opposition did not emerge in the Whānau Ora policy field upon the removal of Turia and closure of the Government to Māori during this time period. Given the nature of the foreshore policy that was developing at the same time, many Māori resources were being dedicated to battling the foreshore policy, and with a limited resource pool, the Whānau Ora policy progress can be argued to have stalled. The infrastructure of the Māori service providers was utilized in providing accommodation and hospitality to the foreshore and seabed hīkoi walkers. Participant 13 noted that the infrastructure provided by these enabled and facilitated the size of the hīkoi that may not have been possible otherwise.

2008 Post-Election Bargaining

The foreshore and seabed battles saw Māori closed out of government processes until the point of government turnover that once again changed the political environment and re-opened the policy process. As discussed in chapter four, the 2008 confidence and supply agreement gave the Māori Party Co-leaders ministerial positions outside of Cabinet. This role allowed the members a larger influence on policy development without the inflexibility a Cabinet role would entail. The Māori Party's broadened policy manifesto of the 2008 election now incorporated Māori movement's calls for policies to address social inequalities. The post-election agreement made note of the Māori Party's desire to further whānau ora explicitly stating: "The Māori Party seeks significant outcomes in whanau ora, through eliminating poverty, advocating for social justice, and advancing Māori social, cultural, economic and

community development in the best interests of the nation (Confidence and Supply Agreement 2008 p3).”

The agreement between the parties returned Turia to the Associate Minister roles she was so criticized for losing over the foreshore case: Minister for the Community and Voluntary Sector, Associate Minister of Health and Associate Minister of Social Development and Employment, and once again opened a channel into this upper level of decision making; however, a new barrier to participation emerged under this agreement. The minister, when speaking or acting within a portfolio role, is deemed to be speaking for the Government and is therefore bound to represent the Government position regarding these responsibilities. Previously Turia was held to the party line of her own party in government; however, this time around the Māori Party’s policy that Turia was elected to support was subservient to the National Party line, as the core party of the Government. There was, therefore, a tradeoff between the ability to input Māori movement’s influence directly into the upper level of decision making, and flexibility to criticize the Government position with Māori voices.

Participant 24 recalled this political challenge that faced the Māori Party when deciding to enter into an agreement with National. This participant noted that the Māori Party MPs came to an agreement that it was their duty, as a conduit of Māori movements, to achieve as much influence on policy with a Māori Kaupapa as they possibly could. It was agreed within the party, that in order to have the most Māori influence on the decision making processes of government, the Māori Party was obliged to enter into an agreement with National to gain ministerial positions and greater influence.

Whānau Ora Taskforce

As part of the partnership agreement between National and the Māori Party, In June, 2009, Cabinet approved the establishment of the Whānau Ora Taskforce to develop a framework for a whānau centred approach to wellbeing (MSD 2014). This group was assigned to find a better way for the Government to work beside Māori and help determine how whānau ora will be applied to government policy (Ministry of Social Development 2015). The taskforce was made up of six members, five of whom were experienced in administering, analyzing or developing Māori social and health initiatives and were connected with Māori communities. The taskforce was often referred to as a point of access for Māori input into the development of this policy and held 22 regional hui, meeting with approximately 600 people, and received over 100 written submissions. This point of access had direct input into the policy development process of the Whānau Ora policy, as the taskforce was to report back to the minister every second month and to create a report on the initiative.

The taskforce released a public discussion document in October, 2009, which allowed for submissions to be made on their findings up to that point. This feedback process was one that was commended by many as an appropriate consultation practice; it allowed Māori movements to see how

their input was utilized and gave a preliminary look at the direction of the findings, whilst allowing a chance for improvement through rebuttal.

In January, 2010, the taskforce's report was released, mentioning the positive environment of the consultation process with "strong support for the kaupapa, and enthusiasm for a fresh approach, [and] high level of optimism around the country (Durie *et al* 2010 p5)." This report held six key recommendations: the creation of an independent trust to govern, coordinate and implement Whānau Ora; specific Whānau Ora appropriations to be managed by the trust; an integrated and comprehensive service focused on measureable outcomes; the guidance of Te Ao Māori; support from all government agencies responsible for whānau well-being; and regional panels to allow for local input into implementation (Durie *et al* 2010).

A participant spoke of their involvement as a Māori service provider in the taskforce process, noting that this process provided a direct line to government and policy development that they had faith would translate their opinions unfiltered. This was compared with their other experiences through government officials that changed or ignored their input before it could even reach the minister. The participant emphasized that when Māori spoke directly to the minister they had trust their input would at least be heard, and had more potential to make change.

Those working within government have to go line by line by line, by the time it gets to the minister it is distorted. It's preferable that it comes from the Māori people who actually work there and do the work, then they know that the change will happen, and the policy and the analysis will happen because they are the ones who worked with them (Participant 6).

The taskforce was seen to be a very open process, the difference between it and the previous 'consultation document' style approach to ironing out a policy can be attributed to practices allowed by a government that was open to Māori participation. What can be argued to have allowed this open process was the parallel policy direction from the Government parties. As Sharples said "he was delighted to discover National's policy on Whānau Ora mirrored his own party's election material (Tahana 2011)." Firstly this taskforce set out with an agenda, but no predetermined policy. Secondly the taskforce was made up of trusted and experienced Māori as community members rather than public officials. These two factors meant the flow of information to influence the development of the policy was not filtered by any government line or predetermined policy, allowing the input from Māori to go directly to the executive. The key comparison between this process and the foreshore process was that the Government had no predetermined policy direction that closed the input process to participation.

The taskforce report was the substantial foundation of the Whānau Ora policy; however, despite the open process of consultation and unfiltered translation of these Māori movements through to minister Turia, the Government remained the final barrier to participation and the final makeup of the

policy was changed before implementation. Many of the recommendations of the taskforce were taken on board; however, the notion of an independent trust was vetoed by the Government and the policy remained government run. This factor is argued to be one of the largest changes and barriers to Māori participation and influence over the implementation of the policy (Participant 2).

Output/Implementation

Based on the taskforce report, the 2010 Whānau Ora approach to social service delivery was introduced with Tariana Turia at the helm. The Whānau Ora framework had seven principles that were to underpin and drive whānau-centred service delivery. These were derived from Māori cultural beliefs and public policy best practice (Boulton *et al* 2013), developed as a result of the taskforce consultation channeling Māori participation into the policy process. The influence the community had on this policy through the taskforce meant the “Whānau Ora approach has, in many ways, simply formalized the manner in which many Māori health providers have already been operating since their inception in the early 1990s (Boulton *et al* 2013 p 27).” The following section will discuss the opportunity structures for Māori representation and participation in the implementation and evaluation of this policy.

Government Departments

As, discussed above Māori movements called for independent implementation of Māori policy; however, the Government as the final barrier to participation decided against this. Whānau Ora was developed to work across the government departments of Ministry of Health, Social Development and Te Puni Kokiri (TPK). Interestingly given the policy’s development through the health sector, this policy was placed under TPK to administer. It was the opinion of participants that either the Ministry of Health or Ministry of Social Development would be a better fit for the deliverance of this policy. Minister Turia made note of “the way in the health sector has led us forward in developing a Whānau Ora approach (Ministry of Health 2010 p2),” despite this development history TPK were given the lead role on the policy development and administration. This was a large point of criticism within interview participants, especially those working within administration of whānau ora service, with not a single participant involved in whānau ora commenting on the flaw of having a government department administer a policy that was designed to be Māori driven and administered.

Whanau Ora has generally had a high regard because it is a traditional Māori concept, the problem was, and I think this is the political problem that minister Tariana Turia had, was that she gave it to TPK to roll out and TPK by definition is a Crown agency, even though its staff are Māori, they ultimately are Crown agents, (and I say that from a political point of view not as a disparaging remark). They are agents of the Crown therefore their priorities are those of the Crown, at no point do they get the chance to swear allegiance to the Treaty. (Participant 15)

Regardless of the decision of the administering department, it is evident that this policy required an inter-departmental co-productive approach to achieve the broad goals of Whānau Ora. As stated by Minister Turia, “No Single group or agency can pull off this success alone (Ministry of Health 2010 p2).” It was often argued, however, that the taskforce’s recommendation for an independent trust would have removed any of the unease Māori associated with government control of Māori policies.

Governance Group

To support the implementation of Whānau Ora a governance group was created to provide advice on policy priorities and facilitate co-ordination across government agencies and with key stakeholders (TPK 2010). “The governance group will recommend and advise the Minister on policy settings, priorities and regional management issues. It will provide leadership and coordination across government agencies and encourage other organisations and groups to get involved in Whānau Ora (Ministry of Health 2010 p3).” The governance group was to be made up of three community representatives and government representatives from the three central agencies. This group was chaired by Sir Mason Durie, previously chair of the Whānau Ora Taskforce, along with Nancy Tuaine of the taskforce. This maintained a flow of information and direction from the conceptualization group through to implementation.

The governance group along with Minister Turia held a series of National hui in early 2010 to discuss the role, aim and responsibilities of providers under this policy. This was stated by Turia to: “aim to minimize fragmentation, encourage provider development and collaboration, target positive whānau development, utilize integrated data and address whānau needs in a coherent manner (Ministry of Health 2010 p2).” These hui were followed up in late 2011, where Whānau Ora providers came together with government agencies to share the outcomes, models and strategies employed to demonstrate whānau-centred practice (NZNO 2011). Once again this process was seen to be open and participants again enjoyed the direct line to the Government and administrators provided by these hui; however, participants recalled beginning to feel consultation fatigue at these processes as information flow continued to be largely one way and repetitive.

Regional Leadership Groups

Regional Leadership Groups (RLGs) were created with the intention of meeting the need to have community leadership, to “ensure local solutions fit with local-level realities (Ministry of Health 2011 p18).” These groups were to be led by the community with support from government agencies to uphold the core principles of Whānau Ora. These Regional Leadership Groups were to provide the tie between the governance group and the community with their responsibilities outlined by TPK as: “RLGs are to provide recommendations and high quality advice to the Whānau Ora Governance Group, lead strategic change for Whānau Ora within their region, foster excellent communications and relationships,

and provide representation of Whānau Ora at the local and regional level (TPK 2010 p1).” They also had an important role in considering funding proposals to support Whānau Ora (TPK 2012).

The Regional Leadership Groups had representatives from the three overseeing departments, with three to seven community members appointed by the Minister of Whānau Ora through an open application process. In effect, all appointments to these groups were made by government representatives, with the governance group responsible for the appointment of the Chair and Deputy Chair who were to attend meetings and provide feedback. This government appointment can be argued to provide a barrier to the accessibility of these groups. It was often argued by participants that the members assigned by the government departments played to existing ‘in groups’ or previously established consultants, filtering the input of the wider community, much like the previous discussion of members on the North Health Board.

Participants were often rather dismissive of the RLG’s and preferred to wait for meetings or hui with the governance group or ministers. It is important to note this tactic was utilized when attempting to influence the decision making process and that the RLG’s were sufficiently engaged with at other points of participation. Similarly to above, these participants noted that the more steps in the ladder of communication, the more ability for their participation to be lost, adapted or filtered.

The boundaries of these Regional Leadership Groups were based on the 10 regional boundaries of TPK. This is an interesting effect that stems from the decision of which department was given the lead on the implementation of this policy. In each case regional boundaries are likely to cut tribal borders and hold different challenges; however, it was argued by many participants that the District Health Boards boundaries would have been a much better fit for the implementation of these RLGs. This point is argued on the basis that the RLG’s mandate is to provide the link between communities and the governance group, and given the broad nature of some of the regions under the TPK divisions there was an undeniable challenge in representing the different nature of the many communities in these regions. Attached in Appendix E is an image depicting the TPK, Ministry of Health (DHB) and MSD regional boundaries for reference. The DHB divisions are much smaller and therefore arguably hold a more even representation of peoples within these boundaries. This point was accentuated by participants when they spoke of the differences between even very close neighboring communities. If we take for example the TPK boundary of Te Waipounamu, this covers most of the South Island (the Ngāi Tahu Region); however the DHB boundaries split this into five regions. This is further discussed under the Commissioning Agencies.

Commissioning Agencies

Pressure to move towards self-management was continual from Māori movements throughout the earlier stages of Whānau Ora. In 2013, Sir Mason Durie chair of the Whānau Ora Governance Group,

stated that the initial stages of building the capacity to provide whānau-centred services was progressing well, and the next step was to move towards self-management (TPK 2013B). With the winding down of the governance group and RLGs in 2014, Whānau Ora funding decisions were moved to three commissioning agencies, with TPK remaining the administering government department.

There was an open 'Request for Proposals' held by TPK to allow applicant NGOs to apply to be the commissioning agency. This decision process also involved assistance from the Ministries of Business and Innovation, Employment, and Ministry of Pacific Island Affairs (TPK 2013C). The three commissioning agencies were divided by North Island, South Island and Pasifika; for the interest of this research we will look at the Māori commissioners; Te Pou Matakana (North) and Te Pūtahitanga o Te Waipounamu (South).

Participants discussed the selection process as very business oriented, competitive and challenging. It required the NGOs to be well resourced and experienced to be granted the contracts. This undoubtedly formed a barrier to many smaller Māori collectives or iwi groups who may have competed for the position. The resource costs associated with participation were often discussed during interviews and this process was claimed to accentuate the vast inequalities between Māori collectives and the Crown expectations and requirements in order to participate (Participants, 1, 11, 12 and others). Although it is fair for the government to expect experience and expertise, the resources required to enter a proposal to become a commissioning agency were very high.

Although this gave Māori control over funding, with commissioning agencies being Māori driven, they were still answerable to TPK. This move further reduced the tie between the community and government from 10 RLGs to 3 commissioning agencies (2 for Māori). One participant, a Southern iwi leader, spoke of the differing challenges of Māori within these large areas, as their people face challenges of isolation and a dispersed community, compared with the density of Māori within Canterbury, which again is far different from the North (Participant 17). However it was noted that despite the broader borders of the commissioning agencies, they had a stronger mandate and trust as their ties with the community were stronger than the government run RLGs.

A further challenge to the devolution to commissioning agencies was noted in the origin of the funding. Participants again noted that the taskforce proposition of an independent trust would be preferable to TPK administration of funding, as this maintained the power relationship of Crown control. Furthermore when funding becomes based on Māori population rather than needs this can maintain inequalities, as the need to create community based approaches may be more costly for isolated and dispersed Māori populations, whereas the density of other communities will hold different challenges and costs. A member of the South Island Commissioning Agency discussed this challenge with me, stating that they had asked the Minister (Te Ururoa) in a feedback meeting to factor this in; "I wanted

him to take it back to the other ministers that when they do budgeting they need to take into account the geographical isolation here (Participant 22).” Upon receiving a negative response with no opportunity for discussion, negotiation, or compromise with the Minister saying this would be too difficult, they noted “I think one of the big problems is the people who make and write the policy are in Wellington, they do not understand the landscape down here.” This is an example of a member of the Commissioning Agency returning to the minister, voicing the concerns of the community they are representing, acting in the purpose of their position as defined by the policy, and having this participation reaching a closed point of access. Here the challenge is that even with the groups being created with good intention to provide a point of Māori access, these commissioning agencies have a limited input, as will be further discussed under evaluation.

Providers

In the beginning stages of Whānau Ora, the governance group called for Expressions of Interest from eligible providers or collectives who sought to develop whānau-centred services (NZNO 2011). These providers were able to retain the funding they held under previous contracts and to develop them into whānau ora contracts. The first funding saw 25 successful collectives out of over 350 applicants, and in 2011, further funding was opened to 8 new locations and providers (NZNO 2011). This is the grass roots level where the policy interacts with the community.

I spent some time talking to members of the community that were interacting with Whānau Ora providers, and administrators within these collectives in both the North and South Island. What was most evident was the difference between these two, and the challenges facing their communities, and thus the realization and practices that were undertaken to achieve whānau ora. It was very evident that the policy’s success in terms of the output to Māori at a grass roots level was dependent on flexibility to adapt to the unique needs of whānau, this was reflected at the outset; “Whānau Ora requires health providers to be skilled in whānau interventions; have a wide network of services and programmes; possess brokerage experience and a commitment to whānau self-management and self-determination. Most significant of all is the fact that whānau will be at the very center of this approach: it builds on their strengths and is driven by their aspirations (Ministry of Health 2010 p2).”

In terms of Māori participation and representation at this level, those who were practicing a whānau ora approach were dependent on just that, community level participation within their service. Therefore these providers had their own built in mechanisms to facilitate open participation. The barriers to participation then became evident, increasingly as participation went up the governance ladder to reach what practitioners reported to be a very closed system. These providers retold many examples of participating in hui and consultation processes, only to have to return a year later and say the same things. They continually saw no change from the government, and limited government actions

from their input back into their own and other communities. By the point in the process that I was interviewing people, some 5 years into Whānau Ora, people were beginning to express strong feelings of consultation fatigue due to a lack of perceived efficacy. At the end of the day they were all simply attempting to make the best of the policy for their communities, and dreading, yet expecting, more policy changes that were out of their hands.

Policy Evaluation

This thesis contends that there is an equally important place for Māori participation and representation in the evaluation of policy as there is in formation and implementation. This case study has allowed discussion of the role of Māori in evaluation of policy as at the time of writing, this policy is being evaluated and many of the participants I interviewed have been formally or informally reflecting on the process. This is where the political cycle is at the time of this thesis. Although this policy has been implemented for many years now, it is only just beginning to be publicly evaluated.

There has been continual monitoring of the service providers; however, this has always been conducted by the government agencies. Speaking to many different service providers, and people working within the commissioning agencies, one of the barriers to Māori participation is this evaluation process is that the government departments have set the measures for success based on their understanding of Whānau Ora; however, this often does not meet the measures or understandings of the distributors working to local conceptualizations. This has meant a mismatch between the Government's evaluation techniques and that of the commissioning agencies and providers

Upon the retirement of Tariana Turia and the appointment of Te Ururoa Flavell, leader of the Māori Party, as the Minister in charge, the Whānau Ora policy has been criticized within Parliament at the point of evaluation. As previously noted, Turia has championed this policy for a long time, and has had a very strong conceptualization of whānau ora. Turia's direction has maintained stability within the Government for a policy that is based on some very disputable and adaptable directions and outcomes. The flexibility allowed for by Turia, as an important determinant of the policy's success, has now become a criticism of the policy in the absence of her strong vision.

Alcorn (2011) noted that the challenges with the policy are that it requires and allows for local flexibility; however, this also means its success is dependent on local communities engaging with the policy, identifying their own outcome measures and then driving the development of solutions. Although a generic meaning of whānau ora may have been sufficient at government level to drive policy development in the beginning, it now requires a detailed explanation of what the outcomes look like for monitoring funding and provider success. The challenge is each locality will have different measures of success as each region will have different goals and challenges under whānau ora.

One of the most pressing challenges from a public policy, and indeed contracting and accountability, perspective, is the extent to which concepts of whānau ora may differ across organisations, across regions, between funders and providers, and even between providers and whānau themselves. A particular challenge is the need for flexibility in the design, operation, contracting and evaluating of the services which, as required by the policy itself, are necessarily local specific (Boulton *et al* 2013 p 28).

Although Flavell has undertaken a series of hui across the nation with providers to strengthen his understanding of what Whānau Ora means to localities, the flexibility of the policy has meant finding and meeting a set of government outcomes has been challenging in this evaluation phase. Many claim Turia left the policy open to this downfall by not defining a set of government outcomes and monitoring and evaluation processes during the formation of this policy process (in particular Participants 4, and 16 along with many others in passing).

In the light of this challenging evaluation service provider participants spoke of the uncertainty of the policy's future. What is often argued is that with the Government distributing whānau ora, whether this is through NGO commissioning agencies or not, the decision to stop funding ultimately rests with the Government and therefore the policy is not in the hands of Māori. This is where people called this policy most closed, as regardless of Māori input into the development of the policy, at the end of the day Māori are shut out of the evaluation process and therefore are closed out of whether this policy continues. This policy has been far more opened in the earlier levels of input for Māori within the health and social development policy fields when it comes to whānau, however their inability to have a hand in the evaluation of the policy has many feeling their participation falls on 'deaf ears,' or in the framework of this research, meets a closed structure

Once again distributors spoke of continuing 'in spite of' the Government decision at this point. Members of the commissioning agencies spoke of the NGO's attempts to build their capital so they would no longer be dependent on government funding and could continue to develop their whānau ora framework even if the policy was changed (Participants 5 and 22). Furthermore a service provider spoke of how they had been offering their core service for 29 years and would continue to do so even if their Whānau Ora funding stopped. They also noted that they have only changed the nature of the service they provide in so much as it aligns with their original purpose: the Whānau Ora policy has opened funding and allowed their programmes to grow, but their existence is not dependent on this policy (Participant 6). Finally an ex-policy analyst within the health department spoke of their experience in being hired by many Māori health providers to help re-write their frameworks to align with the changing politics of the times as Governments and policies changed. Predicting that if whānau ora were to be cut providers would once again adapt their frameworks, not their core services, to meet the new

funding/contracting requirements (Participant 13). These and many other experiences were told with the notion of Māori adapting to policies that further their purpose, and continuing 'in spite of' those that do not. "Otherwise everything will just stop (Participant 7)."

Summary

What is challenging for this thesis is that this policy process holds some examples of open opportunities, or attempts at involving Māori participation within the policy process, yet these windows of participation do not equate to a complete picture of an open process. In staying true to the opinions and perceptions of those I interviewed, and even those that commended pieces of the process still concluded that the process was in effect closed, and Māori movements had no input or influence in reality. What this shows is that once again open points of access can be closed off by other parts of the process.

This case study does allow us room to speculate on how a policy process can be opened, if we avoid the shortfalls that occurred during this process, which will be discussed in the final chapter of this thesis. To accentuate this point when asking a policy person who worked closely with the taskforce and policy workers of Whānau Ora I asked; do you see places where Māori participation is facilitated in the process?" To which they replied "No! Not as a regular thing, Whānau Ora was an exception in that it was driven by a Māori minister who understood how the Māori world works (Participant 2)." Yet, unlike the previous two policies the Māori social movements in the Whānau Ora process is sufficiently channeled through assimilative processes which prevent the eruption of confrontational strategies.

The Treaty of Waitangi was seen to be a point of access utilized by Māori to achieve participation within the public service policy process. This strategy utilized the national shift towards emphasizing and upholding the Treaty within policy to push for greater Māori influence in this policy process. The Māori renaissance movement of the 1970s can be attributed with having done a lot of the ground work towards opening this as an access point for Māori within policy. And the international movement towards reducing inequalities was argued to further give footing to this.

As a result many of the reforms in the Health sector included mentions of the Treaty of Waitangi as "a platform DHBs and Māori can use to build relationships and to improve Māori health outcomes (Cumming *et al* 2003 p12)." One challenge is that throughout this case study the obligation to uphold the principles of the Treaty has been passed on to local authorities, which does provide more access points; however, this moves the relationship with Māori away from the Crown, who are the original Treaty partner. Many participants noted that when the Treaty rhetoric is moved further from the Crown itself to its agents it often loses strength. Participants have noted that the onus of the Treaty is easily ignored when the person charged with upholding it does not feel they themselves are a Treaty partner.

Furthermore it is argued that Māori have fared better when dealing at a governmental level than at a local level (Cumming *et al* 2003), as further exemplified by the distribution complaints under the foreshore. This challenging point accentuates the difference between the mobilizing effect of decentralization signaling more potential for success (Vrablikova 2014), and the unique nature of New Zealand politics which has a stronger provision (the Treaty) to provide Māori greater access in more centralized processes. There is a further dilemma in decentralization whereby when a Māori movement has success at a local level the effect and benefit are limited to local implementation; other localities may still have to fight and win the same battles under differing levels of local openness, which may achieve different results. Whereas when Māori movements win battles at the center (with the Crown) the effect on policy is national.

The devolution away from the Ministry of Health to DHBs is very similar to that of the earlier devolution to regional councils in the Foreshore and Seabed case study which led to the Te Tau Ihu court battles. While the foreshore case was an example of a closed point of access, the 1990s health policy revisions had some measures in place to attempt to open the process to Māori input, with emphasis on the Treaty, and provisions for Māori within DHB's. The subsequent development of Māori health care providers is argued to be one fundamental advance in the policy fields leading to the development of the Whānau Ora policy.

Once again the final point participants made in looking to the future of this policy field was that they would continue their Kaupapa regardless of the government policy. This notion of continuing 'in spite of' policy change is slightly different to the passive resistance of the previous case study in that this was not voiced as a strategy of defiance, but more a strategy of adaptation. The previous defiance could be conducted as a result of weak implementation structures being identified by Māori. In this case the implementation structures are not restrictive, but distributive, and service providers have identified the dense policy environment and know they may adapt to fit another policy should Whānau Ora be substantially reformed or removed. The output structures have enough weaker elements to allow such an adaptation and maintenance of Kaupapa practices regardless of the policy. Bargh (2012) describes the emergence of Māori Trusts and collectives for service providers as a means of Māori 'getting on with things' rather than waiting for the Crown to address power imbalances (p167).

Despite the hypothesis that the Whānau Ora policy process would be more open than the foreshore cases, this chapter has argued that the barriers to participation again stem from government closures. This chapter once again noted points of access to be ultimately closed or opened by the Government as the final gate-keeper to participation. The difference between this case study and the foreshore cases is that the Government processes of Whānau Ora were more open and facilitative to participation at the grass roots level, and thus participation remained assimilative in the mainstream

institutions rather than boiling over to more disruptive strategies; however, as noted above, the limited pool of resources at Māori movement's disposal meant that during the most closed period where protest may have occurred, Māori resources from the Whānau Ora movement were diverted and mobilized against the foreshore policies.

The Whānau Ora case study is an example of a social movement pressuring policy change in both a dense political environment, and a dense policy environment. Although distributive or social policies are not typically as explosive as ownership of resources, the strength of Māori movements should not be underestimated as the renaissance has taught us. It could be argued that the parallel battle over the foreshore drained the social policy movement of resources and prohibited confrontation, and by the time these resources were refocused the change of government had reopened (if only marginally) the policy process.

Chapter Six

Discussion and Conclusion

This research was conducted as a series of interviews with a wide variety of Māori sources complimented by secondary reading of policy documents and articles. Firstly I would like to reinforce that this research belongs to Te Ao Māori, I am simply conducting the research, I have allowed it to be driven and guided by those Māori involved to allow this piece of work to do justice to those who have given their time and expertise. I have made every attempt to ensure that those people I have interviewed or held “off the record” discussions with were drawn from a range of groups and experienced the policy process in a variety of ways, from senior officials, to flax-roots community workers (see Table 3). This sample of participants however cannot fully capture all the possible Māori voices, experiences and perceptions; this is one of the largest limitations of my research and thus people may disagree with some of the findings. However I have endeavored to stay true to the information given to me from my set of participants. What was evident throughout the interview process was that quite often what was said during one interview could be completely contradicted during another interview. I have however attempted to highlight where there were differing opinions that came through the interviews. Despite these significant differences, there are also some overarching conclusions and I turn now to look at the range of findings.

This chapter will begin by addressing the initial findings of the research and the hypotheses. This will address our questions of what impact, if any, MMP has had on both openness of the policy process overall and across the two differing policy fields that this thesis focused on. Once the primary research questions have been addressed, this conclusion will begin to construct the broader picture of Māori participation and representation that emerged from listening to participants. This chapter will discuss those political opportunity structures that appear to provide access to policy beyond Parliament and what these mean in reality for Māori participation and representation. These access points will continue to be discussed under the theoretical framework of Kitschelt in terms of the filters, channels and barriers of these political opportunity structures and strategies available to Māori movements.

Next, this chapter will discuss the themes that emerged from participants, as these are extremely important in piecing together the puzzle of what participation and representation actually looks like to those Māori attempting to influence policy. These findings are as important as the discussions of political opportunity structures themselves, as these are the thoughts, experiences and emotions that were reflected by the participants as important.

This chapter also will compile the suggestions for improvement made by participants. This section I believe is the most important collection of knowledge within this thesis as it provides some of New Zealand’s most experienced Māori opinion leaders’ solutions to the barriers faced by Māori in the

policy process. This section holds the way forward for New Zealand, even in some of the most simple and small changes there is potential for dramatic and instrumental improvement to Māori participation and representation as a Treaty imperative, a means of upholding indigenous group rights, and living up to the expectations of MMP. Finally findings of this research will be applied to identify how different policy processes can be implemented to move New Zealand towards the nation envisaged by the Treaty of Waitangi.

Theoretical Insights: Adapting Kitschelt's Model

Before we move to the political opportunity structures and what these mean to our hypotheses we will discuss the changes /adaptations made to the underlying theoretical framework. The hypotheses were investigated drawing from theories of social movements to identify the political opportunity structures that might be available to Māori within the post-MMP policy process. These theories spoke of input and output opportunity structures which can be considered in terms of policy formation (input) and policy implementation (output). The framework looked at these two sides of the policy process as two rather distinct halves of one single whole. What this thesis identified to further this theoretical foundation was the important role previous policies' output/implementation had as an influence on the input stage of the subsequent policy. Under this new frame we may think of policy processes as a continual cycle where changes at the output of previous policies can provide input into the beginning of a new policy, which may have feedback into the subsequent output. Furthermore this conceptualization appreciates the dense policy environment of the political landscape and how policies and actions can interact across policy fields. This cyclic nature of the policy process, while perhaps not a new concept, is a new conceptualization of the way Kitschelt (1986) and other political opportunity theorists discussed input and output.

This feedback cycle played a large role in the case studies. In the case of the Foreshore and Seabed Act 2004 a destabilization of the previous policy (for example the 2003 court of Appeal ruling) signaled mobilization and saw Parliament step in to regain policy control over the courts, triggering a new policy process. For the second round of the foreshore case study, the Marine and Coastal Area (Takutai Moana) Act 2011, the implementation of the previous policy could not settle dissent, and political opposition/stalemate continued until the change of government opened input structures again, allowing the policy process to be initiated to repeal and replace (re-conceptualize) the previous foreshore policy. And finally in the case study of Whānau Ora the persistent inequalities that previous policies failed to address saw differing departments collectively reinterpret the issue, and through perpetual review, gather those pieces of policy where some advances were noticed, and initiate a new policy conceptualization.

This thesis suggests that Kitschelt's model of opportunity structures is too static and can not effectively account for this process of constant policy adaptation. Having offered the alternative idea of seeing continuous cycles of policy this chapter will discuss the political opportunity structures and their openness in terms of their overall effect on the policy process at all times rather than separately as input and output structures.

Addressing the Primary Hypothesis

MMP was introduced with an expectation of opening the political process to Māori participation and representation within Parliament (Vowles 1995). The aim of this research was to investigate the reality of how open Māori representation and participation was under MMP. This discussion of the findings of the research in terms of the primary hypothesis will consider the extent to which interviewees suggested that MMP has created opportunity structures and how these interact with existing structures.

In the discussion of social movement theories there is a lot of mention of non-electoral participation. This speaks of all attempts to influence policy outside of voting in elections. I will briefly discuss some elements of Māori voting behavior that came through in the interviews later; however, for the purpose of this thesis we are mostly focusing on non-electoral participation. The fact that in the interviews I conducted electoral participation appears to play only a small role in Māori participation and representation is interesting given this study's focus on MMP. One of the key challenges to MMP and its theorized benefits to representation is that the electoral process only changed the face of Parliament, limiting its effect in opening the process for Māori because many of the political opportunity structures in the policy process remained the same, as they are external to this change. Given this observation we will discuss the findings of this research in terms of the impact of MMP; this will allow us to address the primary research question as to whether MMP has opened the policy process.

As discussed in chapter one, MMP was praised and deemed a success given the number of MPs identifying as Māori after the first election. This increased number of Māori within Parliament was argued to increase Māori representation; however, this argument was challenged in chapter three, for example, considering the discussion surrounding Beyer's decision to vote as an MP representing her Pākehā electorate, rather than support Māori opinion. This was further depicted by other Māori MP's decisions to follow party lines as list MPs during the Foreshore and Seabed case study. The argument that Māori representation is increased merely by the number of Māori within Parliament is weakened by the fact that Māori MPs often have to follow party lines or represent the Pākehā majority of their voters. This pressure exists despite the change to MMP and is commonly argued by both participants and theorists (Joseph 1999) to minimize the effect of having more Māori MPs within Parliament under MMP.

The above question of the increased number of Māori MPs raises the point of difference between having Māori representatives and Māori representation. Many participants discussed this challenge and noted that mostly Māori MPs are in Parliament firstly as a party member, and secondly as a Māori. This is reflected by a participant working within Parliament who stated; “the fact that you are by whakapapa a Māori MP does not necessarily mean you are carrying a Māori world view in Parliament. There are a lot of MPs who would say they are the last to represent Māori, for example, those representing the [omitted party name] ideology. They just happen to be Māori (Participant 24).” The few exceptions to this are during conscience votes, or in very special circumstances with local focus, for example, in chapter three Mahuta was able to negotiate with the Labour Party to vote in line with her electorate’s opinion against the party line. This allowance was only made under the circumstances in order to maintain party stability.

Party discipline applies even to Māori electorate MPs as seen by the example of Turia in chapter three, and Harawira in chapter four. In these two cases the MPs stood with the opinion of their electorates over their party lines, which caused them to be removed from their original parties. This challenges the idea that electorate seats hold a different mandate to list seats, as a participant who worked for a political party noted, “that even electorate MPs are held to the party line primarily, over the interests of their electorate as their political party placed them within that electorate (Participant 4).”

Interestingly under the recommendation of the Royal Commission on Electoral System (1986) it was suggested the Māori seats should be removed to increase Māori representation through greater competition in the general electorate. The introduction of MMP did however come with the removal of the cap on Māori seats; increasing the number of Māori electorate MP’s to be proportionate to the Māori roll. However, as discussed in chapter one and many participants affirmed throughout the interviews, Māori traditionally do not fare well under majority representation (Moore 2003). In both of the above cases the Māori MPs in question held Māori electorate seats, and thus their actions to uphold Māori representation were stronger due to their mandate as Māori electorate MPs. All three policy cycles identified an important role the Māori seats played in securing Māori representation through the creation of the Māori Party and later the Mana movement. The Māori seats that were highly criticized during discussions surrounding the implementation of MMP as stifling competition for Māori representation, in this thesis proved the opposite; to provide more representation for Māori, and greater access to the policy process than seen with the general roll MPs and party competition.

During the early stages of the foreshore and seabed policy formation those holding Māori seats in traditional parties were criticized for following the party line rather than representing Māori opinion; however, the creation of the Māori Party resulted from a Māori electorate MP standing up for their

constituents against the strict party lines of the government. The ability for MP's to take a stand on conscience against their party, knowing their electorate supported them and would re-elect them with another party, gave strength to the Māori voices in these cases. This is a luxury a back bencher may not have as a list MP, and one almost nonexistent under FPP. It should be noted that under FPP politicians were still able to cross the floor in extreme circumstances and thus the ability to vote against one's party is not new. What effect MMP has had here is that under FPP this would likely end their career rather than lead to a new party.

There are some limiting factors to the effect of the Māori seats as access points, as alluded to above. Firstly the same pressures of other electorate seats apply to the Māori seats and the effect of party discipline was evident over the foreshore case study with only one Māori MP crossing the floor despite widespread Māori mobilization. Furthermore there is a concern when one political party dominates all the Māori electorate seats, as competition is further stifled and Māori voices may be lost within the party line, as seen under Labour in chapter three. Nevertheless the Māori electorates provide a mandate for a Māori focus that is important in representation of Māori, given the arguments of the Treaty and self-determination.

Complementary to this is the discussions of the focus of the Māori Party. This party faces the same challenges as are raised when speaking of the Māori electorate MPs and later in discussions of TPK and Māori public servants. The challenge in evaluating this party is distinguishing between a party of Māori representatives, and a party representing Māori. What must be maintained is not only the access point, but also the open flow to represent Māori voices in decision making. Although the Māori Party have policy directions and discipline just like any other party, these are formed by Māori for Māori Kaupapa. As a participant who worked with Turia reported, "Tariana used to say there shouldn't always be an assumption that there will always be a Māori party as that is just the vehicle for achieving the aspirations of whānau, hapū and iwi." In the Foreshore and Seabed case study this party emerged as a representative of Māori voices and continued this through the Whānau Ora policy. As the Marine and Coastal case developed, the Māori Party can be argued have had to moderate their claims, an effect of mainstream politics and coalition governments, to maintain power and therefore policy control.

Kitschelt (1986) discussed how the number of political parties increases openness as it provides points of access for groups to articulate their demands within electoral politics. Social movement theorists often note the number of political parties to be a motivation for mobilization (Vrablikova 2014) and their ability to channel movements within institutions to less disruptive politics (Tilly 1995). Although the theories surrounding social movements all discuss the number of political parties as an opening factor, the effect of this should be considered carefully within New Zealand's structures.

The new threshold for representation within Parliament under MMP saw a rapid increase in the both the number of political parties competing in elections and those represented within Parliament. These immediate results however did not capture Māori movements until the catalyst of the Foreshore and Seabed case saw the creation of the Māori Party. The ability to form new parties and the increased representation of minority parties within Parliament is the primary access point opened under MMP. This ability for new parties to emerge, encouraged under the structures of MMP, was an important factor in these case studies and may be the largest opening MMP provided. There are however some challenges to the strength of this new opening and mechanisms that work to limit its effect.

As stated in chapter one, Joseph (2009) noted that we elect parliaments and not governments and subsequently political leaders create novel arrangements in their endeavors to form governments. The nature of minority governments under MMP has created innovative post-election bargaining for the larger parties to gain support in solidifying their Government. Interdependence between the larger party and minority parties is created as the leading party needs the minority support to secure power and push through legislation, and the minority party stands to receive many benefits of being within the conceptualization of government.

The relationship accord between the Māori Party and National in the 2008 election is an example of the interesting development in Māori participation and representation that resulted from MMP. As was seen in chapter four and five, being a supply and demand partner granted the Māori Party access to cabinet, and therefore opened their access to the policy process. This was seen through a comparison between the achievements of the Māori Party as an independent minority presenting the private member's bill, versus the ability to achieve repeal as part of the government. However in many cases this bargaining may mean these smaller parties have to follow the policy direction of the leading party over their own interests, minority parties moderating their claims, or silencing objection to the leading party. This can be seen during the Whānau Ora case study and the creation of the Marine and Coastal Act, as the Māori Party's ability to channel input from Māori movements into policy influence was controlled by National as the core party of the Government.

The limitations of a minority party within government were clear within the case studies of this thesis, and were attributed to the fact that the structures of Parliament and the understanding of government were maintained despite the introduction of MMP. The select committee process was identified by Māori as a key point of access, as discussed in the case studies; however, as a parliamentarian noted in the interviews; select committees are still operated under the previous understanding of government (Participant 24). The select committee is still governed by the old structure whereby the Government dictates those who sit on the committee as chairs and thus can manage the information from those participating in this seemingly open process. In terms of political

parties, a quote from one participant can summarize how this structure limits minority party participation and thus the effect of MMP;

The chair of select committees and the ability to have people on select committees is determined by one your number of seats in the house, and two the Government. So there is not a sense of equitable sharing of select committee chairs and deputy chairs, and while that seems small it would be a structural change that would give particularly the smaller parties the chance to be involved in a more collaborate process and helping to manage more collaborative policy making and legislative discussion. Because they would in positions of authority and would be answerable to not only their committee but also the bureaucracy of Parliament beyond their own party (Participant 16).

Similar claims were made from participants within government departments to those experienced in the select committee processes. These participants pointed out strong control within their departments stemming from the leading party (government) rather than the expected voice of Parliament (Participants 2, 3 and 25). This can be argued to stem from the fact that unless negotiated in post-election bargains, the leading party still controls Cabinet and portfolios which in turn determine who manages government departments (Participant 24).

This discussion denotes an adaptation to the political opportunity framework that this thesis has identified; that structures, like the select committee process, which are designed to be open can in fact be closed by the government despite their intended design. Furthermore the government can filter the passage of information through these 'open' processes to limit the information received and analyzed by workers within structures. This discussion alludes to how a new understanding of Parliament away from the 'government versus opposition' thinking is required within parliamentary practices before the changes of MMP will be felt beyond makeup of Parliament.

This brings us to the question of how much has actually changed under MMP, and whether this process has opened the political process for Māori? Easton's (1999) predictions of a louder minority voice, and slower and more thoughtful policy process is not achieved due to the understandings of government being largely maintained as FPP-like 'winner takes all'. Therefore expectations of greater public consultation, longer policy deliberation and a slowing of the government machinery, (or steam roller as deemed by Māori,) are seldom achieved under MMP. "Because the only thing that is changed here is the voting system but not how Parliament works, then we don't get the full benefit of MMP as a collaborative form of political engagement (Participant 16)."

To address the hypothesis, MMP has introduced many more Māori MPs, and more political parties; however, the implications of a continued understanding of the previous government/opposition dynamic has failed to bridle power and has limited the effect of MMP in terms of opening the policy process to Māori participation and representation. Therefore we may see MMP has not introduced a

multitude of new access points for Māori, and those that were introduced, or remain as points of access within parliamentary processes, are often filtered by government or party politics

Addressing the Secondary Hypothesis

To identify whether the policy fields vary in openness to Māori participation and representation this thesis will place the three policy processes within Kitschelt's (1986) framework. Identifying the political opportunity structures of each policy process is difficult given our conceptualization of the policy process as a cycle rather than a distinct two part process. In all the cases there are some key changes to the political environment or political opportunity structures that occur during these policy cycles and thus it must be made clear that the point in time most closely to the change in the key policy is that which is analyzed. This discussion of movements within each policy process however exemplifies how the strength and openness of political opportunity structures lies on a continuum that can shift over time.

Initially the foreshore and seabed policy cycle characterizes Kitschelt's idea of a closed input side with weak output structures: This is depicted in the weakening of previously strong output structures through decentralization leading to mobilization through the use of assimilative strategies, such as the court battles. These assimilative strategies were met by a closed government, that reactively closed both the input processes of the policy formation such that there were no procedural changes for Māori, and the output structures of the incoming policy leading to the use of preemptive confrontational protest strategies. This process ended in limited substantive elite reform and low policy innovation for Māori, with pressures to make structural changes along the way causing the formation of the Māori Party. The point of policy change was characterized by a closed government at input, and introduced strong output structures with a return to centralized policy implementation and the removal of the courts.

The second phase of the foreshore case study, the Marine and Coastal Area (Takutai Moana) Act 2011, falls more within the open input and weak implementation category of Kitschelt; however, this policy phase is closer to the center of the continuum. These Māori movements were channeled through assimilative strategies of working within the government structures, through the Māori party, Waitangi Tribunal and the UN. These movements resulted in the creation of new channels to participate with the introduction of procedural mechanisms such as the Treaty Tribes Coalition and Iwi Chairs influence on the government. The movements achieved some substantive impact in terms of policy innovation (compared to the first phase), however the government filters to participation and the weak output structures resulted in continued policy stalemate and limited policy innovation. This policy process can be argued to have enough openness to allow continued mobilization, but not sufficient to prevent

structural pressures and the creation of the Mana Party resulting from the limited policy changes. Finally the continuation 'in spite of' policy identifies weak output structures of the introduced policy.

Finally the Whānau Ora policy depicts Kitschelt's open input and strong implementation category. These structures again had enough openness to encourage the use of assimilative strategies, with enough output strength to avoid substantial policy stalemates, encourage substantive policy innovation, and avoid structural pressures. Whānau Ora resulted in structural changes in terms of the management of policy through government departments, this can be attributed to policy innovation requiring structural changes in terms of output. However, the claims of a closed process made by the participants identifies that although these processes were open enough allow some policy innovation the barriers to Māori participation put in place by government processes close these input structures at the very last moment. Here the conceptualization of a continuum is required as although in the below table this policy process is characterized by open and strong interactions, the participant's claims would identify these as only marginally open. It can be argued that this policy process was only opened to Māori input because Māori movement's rhetoric was aligned with the policy direction of the government. The effect of some key players providing enough openings to draw this movement within institutions is combined with the openness allowed by the government of the time to channel Māori input into the policy development and allow policy innovation to both occur and be strongly implemented without policy stalemates.

These three different policy processes clarify how Māori have faced differing levels of openness to participation. These findings not only support the hypothesis that there are differing openings across different policy fields, but further show that there is also potential for different openings to occur within a policy field as the political environment changes over time, as seen between the two foreshore policies. The table below is an adaptation of Kitschelt's hypotheses about the relationship between the political opportunity structures and the dynamics of social movements (1986 p68). Table 4 shows the findings of this thesis in terms of the secondary research question by depicting the interaction between the strategies taken by social movements given a system's openness to participation at the input structures (policy formation) and the impact these movements have given the strength of the output (implementation) structures.

Table 4 *The relationship between Political Opportunity Structures and the Effectiveness of Māori Participation and Representation.*

		<i>Openness to participation and representation during policy formation</i>	
		Open	Closed
<i>Implementation structures</i>	Strong	Whānau Ora Use of current structures to participate Creation of channels to participate Innovative policy Limited need for structural changes	Foreshore and Seabed Act Confrontational/protest movements Few/limited procedural gains Limited policy innovation Pressure to make structural changes -eg, create new parties Removal of courts under implementation
	Weak	Marine and Coastal Area (Takutai Moana) Act Use of current structures to participate Creation of channels to participate Limited policy outcomes Medium-low policy innovation Limited need for structural changes	

As noted above the understanding of output strength and input openness must be conceptualized as a continuum. With this understanding we must note that both the Whānau Ora policy and the Marine and Coastal Act were created under similar political environments. One difference between Māori movement's mobilizations of the two policies can be attributed to their differing output strengths, however we must also note the strength of opposition in terms of the nature of the policies, and the limited resources of Māori movements to mobilize multiple issues. The foreshore policies were mainly about the ownership of natural resources and tīkanga, in effect they were about Māori having something taken away, whereas the Whānau Ora policy is about the distribution of social welfare. The nature of the policies themselves is important here as having something removed provokes stronger resistance than skirmishes over being given something.

Social Movements in Policy beyond the Parliament

Having discussed the central hypotheses we now turn our attention to the political opportunity structures. The final sections of this thesis will address the greater aim of this research: to investigate the reality of Māori participation and representation. To do this we must look beyond the simply parliamentary political opportunity structures. This next section will assess the wider points of access and political opportunity structures in order to build an understanding of the reality of Māori participation and representation as discussed by the participants.

Courts

The beginning of the foreshore and seabed policy process shows the use of the courts to address inequalities faced by Māori in the implementation of the past marine management policy. The court as a political opportunity structure was identified as one of the most important points of access

for Māori throughout the interviews. Participants stressed how Māori often turn to the courts, and the Waitangi tribunal as an extension of this, when they are faced with policy barriers. This assimilative strategy, as Kitschelt would call it, is an attempt to force access at times when other points of access are closed to Māori participation. This is an extremely important access point to Māori as a check on government, and what we saw was the removal of this access through the Foreshore and Seabed Act 2004. The power of government to remove Māori access to this established opportunity structure through policy is alarming in terms of democracy, but very interesting in terms of the discussions of this thesis. This identifies the way the political environment can not only determine how open opportunity structures are, but also which ones are even available. This point is furthered by participants with experience within government departments expressing that the minister in charge deems which policies, and which pieces of policy are open to consultation and discussion and which will be closed.

Māori Public Servants/Officials

The role of Māori public servants is an interesting point of access for Māori in the policy process. Some participants made note of the number of Māori working within government departments, especially TPK, and speculated as to their influence on policy development; making comments as to the presence of Ngāti Porou working within government during the time of the foreshore case, alluding to that resulting in their 'stronger' role in this policy. However, this position is strongly disputed by multiple other participants I interviewed. It was evident from my interviews that those who believed Māori within government departments had a great influence were on the outside looking in, and those with experience in these roles disputed this perception based on their experiences.

Those Māori I spoke to that were working within government departments expressed a strong disconnect between their job and their culture. It was strongly stated that they were aware they were there to do their job and that this job was to advise ministers, and after a decision was made, explain that decision. They expressed that their job was never to make or influence a decision or defend it. One participant said "at times I would go back to the minister and ask them if they were aware of the ramifications of their decision, but that was as far as I could go within the boundaries of my job to question their decision at this time (Participant 25)." It was very evident through all policy workers interviewed at the many different levels, that they were there working in their role as a Crown official, at no time were they there as a Māori in terms of policy influence (Participants 3 and 25, along with others). This role was so evident that it was expressed by some that they had whānau who were 'devastated' and even 'angry' to see them at hui or hear of their work; there was a real sense of a loss of Māori identity in exchange for one of the Crown in the policy work, especially during the foreshore case.

Some participants however presented an interesting interpretation when speaking of the limitation of what Māori can achieve when working as public officials. One participant spoke of the lens

Māori officials bring to their jobs, and although they cannot reflect this at all times they conduct their lives with a Māori lens, which may even in the smallest of ways filter into their work (Participant 21). A second participant spoke of the benefits of having Māori public servants in terms of the opportunities it provides. This participant noted that by having Māori working within the Government they may quickly identify policies where Māori may participate (Participant 23). This benefit was briefly seen in chapter five.

This participant used an example of when Māori officials were able to identify a tiny place within legislation that they could place Māori voices, and this small change has had amazing impact on future Māori policy and outcomes. The participant reflects on being told about their work and stated that “no one really thought much of what they were doing, but they knew, they could identify the vast impact this would have (Participant 23).” This observation is very important and speaks of the subtle role Māori can have in influencing policy from within government departments.

What was identified by many interviewees as a benefit of having many Māori public servants is the development of their expertise, which they may then use or impart to their iwi, hapū, or collective. Here participants stated it is most important to have people working both within the system, and outside of it, to have the greatest influence (Participant 25). Once Māori officials have contributed their expertise it is necessary to have Māori working outside of government departments who are able to carry the social movement forward. Those working within the Government are bound by their roles and discipline and thus cannot lead the way in questioning the government. Having people working outside policy allows the freedom to challenge the Government and carry forth their message. When people working are in policy they are developing the analytical skills and research abilities necessary to work at the same level as government, so when policy challenges arise they can contribute this knowledge and expertise to their iwi/hapū (Participant 21). This has an effect not only in building capacity but reducing the inequality between the knowledge, skills and resources available to Māori compared to the seemingly limitless resources of the Crown.

The argument that Māori policy workers will develop their skills and return them to their iwi or hapū was dampened by one participant who claimed this is not often the case. Participant 23 noted that this expectation to return knowledge to iwi/hapū is one that Pākehā do not have to live up to, and in reality is growing less common among Māori. Furthermore many urban Māori do not have connections to their iwi/hapū and thus returning their knowledge is a difficult or unfair expectation.

Consultation

One of the key findings of this research is the challenging position Māori must take in order to increase their participation in consultation. Māori often have to swallow their anger and resentment and come to consultation and negotiations with an amenable personality. This is due to the human nature of

these interactions and the need to establish an open dialogue. Similarly the Māori Party often had to swallow a 'few dead rats' in order to keep onside with National and further their key policies. Consultation and negotiation processes require the development of trust and interpersonal relationships that are often difficult immediately after the confrontation Māori often required to gain entry into the discussion. The fact that the Government can demand or assume this 'good will' and civil obedience from Māori negotiations stems from the power inequalities that exist in a Eurocentric system.

The first criticism with the consultation process is the fact that consultation does not require negotiation, co-production, influence, agreement, changed outcomes or any other influence on the policy progression. What the term consultation means in effect is each side talking at each other, or at times past/over each other. The reality as discussed by participants is that each side speaks and neither has any obligation to take on board anything said in this process. This is discussed by Arnstein (1969) as one of the means of participation that fall under the 'degree of tokenism' banner.

The times where Māori are continually consulted and ignored, or see limited influence, leads to what is most often deemed consultation fatigue. I also would like to discuss what I call 'consultation efficacy' that is a similar but unique outcome of Māori experience with the consultation process. The outcome of token consultation for Māori, as seen in these case studies, is that Māori are aware of the limited outcomes from consultation and grow weary of this one sided participation. Here a contradiction occurs between the aim to become a common/repeat consultation partner, and the resultant consultation fatigue. However I would argue, based on this research that consultation fatigue stems out of a lack of consultation efficacy, much like low voter efficacy leads to low voter turnout.

Consultant fatigue can be avoided through perceived or experienced efficacy. It was often argued during my interviews that the consultation process did not yield results for Māori, and they could not see any of their advice being considered let alone implemented, and thus they began to grow tired of continually participating in a process that was basically the Government going through the motions before they came to their predetermined solution anyway. Many participants discussed their gradual decline of participation within the consultation processes as a result of this.

This highlights a large contradiction between Māori experiences and the Government's expectations that was noticed during this research. A participant working to influence policy from outside government noted the largest barrier to participation was opportunity (Participant 21), whereas a participant who worked within government discussed the difficulty of getting Māori to participate (Participant 25). What the first participant's comment means within the context they were speaking is actually a need for opportunities to have *effective* participation. This context is exemplified by the quote/saying 'all hui no do-i' that was used when speaking of consultation processes. It became clear

through the interviews that Māori identify when participation within consultation is at the 'token' level and do not participate. Therefore when the government participant has noted a lack of participation from Māori, the government departments should firstly turn their attention to why it is perceived this process will have no effect and address this perception/reality, before asking Māori to actively participate in the multitude of token consultation processes.

Finally there is the element of consultation barriers, where some Māori become 'in house' consultation partners therefore excluding the participation from a wider Māori community. However it is also argued that those Māori who are involved have the ability to open the way forward for other Māori movements later in the process (as argued with Ngāti Porou in the foreshore cases). However this causes delay and undue strife to those Māori who are blocked from participating. This is a troubling occurrence that was often discussed during this research. The tension between Māori representative's responsibility to their 'own little patch' and the Pākehā perception that one Māori can represent all Māori was evident throughout the interviews. To combat this barrier Pākehā need to understand and accept that there are many Māori voices, and these may not be represented by the one or two Māori accounted for in forced or in-house consultation processes.

Māori Collective Representation

This leads to another way establishing a relationship and becoming a 'consultant' may create an access point for participation. This does not mean in the paid sense of the word, what this means is establishing the relationship that means that when policy officials need to consult, certain people become the 'go to' people. In this case it is all about establishing a trust and relationship and becoming one of those people inside the tent/board room. The Iwi Chairs Forum are the newest example of this, having established themselves as a go to Māori consultation group of the government. Other examples within this thesis include The Treaty Tribes Coalition, individual iwi or collective representatives, or even on a smaller scale individual consultants/academics.

There are countless examples of people or collectives becoming known consultants to the Government but the Iwi Chairs Forum is an example I would like to focus on for a moment due to its prevalence within interviews. A Māori policy analyst working at a very high level within a government department noted that, what the Iwi Chairs Forum and their Iwi Leaders Groups have done is create a group of iwi mandated leaders, who collectively prioritize the issues they want to be involved in and 'lobby' the Government to be involved on those cases (Participant 25). The word lobbying is used in terms of what issues the Iwi Chairs want to be involved in; once involved, it is a case of them bringing their voices together in an attempt to collectively come up with a set of advice in informing these policies. At other times the Government itself has brought the Iwi Chairs in on cases they require

consultation on as creating networks and cultivating a working relationship is simpler with those already known by the government.

It is the opinion of some of participants who have worked within policy, that the Iwi Chairs Forum and their Iwi Leaders Group now have unprecedented influence on policy. A policy analyst stated that “these Māori could write Māori policy and the Government would implement it practically unchanged (Participant 27).” Another participant with experience from within iwi collectives and the Government stated;

I think that iwi Māori have the greatest level of influence than they’ve ever had through the Iwi Chairs Forum. The ability for iwi leaders to review and comment on cabinet papers, to meet with ministers before decisions go to cabinet, we’ve also had opportunities where iwi chairs have been able to speak directly to cabinet, they’ve been able to brief cabinet committees, that’s unparalleled access (Participant 20).

Unfortunately this perceived access has attracted criticism in recent years. Often iwi collectives are criticized for being slow moving and struggling to reach consensus, especially when different iwi are collected together. When the notion of a Māori parliament is broached it is largely ignored by Pākehā because of the nature of iwi politics. This standard is unreasonable; as in all politics, when an issue is contentious there is going to be disagreement and long discussions, and what iwi collectives do is allow for these long discussions, respecting the contentious nature of the subject and providing sufficient discussion in hopes of coming to the best, and longest serving solution. It is a strong Māori value to always look to the future whilst keeping in mind the past, this tīkanga is a practice that is important in contentious politics to ensure a sound and long standing solution is found. Iwi representative groups or collectives are criticized and held to a standard that is higher than other political actors are held to, especially political parties or Parliament, when in effect they are holding their work to a higher standard than our nations governors do.

There is also a monumental resource cost associated with iwi representative bodies as they have to keep developing their policy knowledge and experience whilst maintaining a connection with their people. “We’ve got to be smart and hard enough to play with ministers and Crown officials and put up constructive solutions, while keeping lay people with a living mandate for those policy positions and I think that’s a burden that people don’t appreciate (Participant 20).” The resource costs of iwi representation and participation was a very large point raised throughout the interviews as one of the greatest barriers to participation. This was often contrasted with the limitless resources of the Crown as a point that maintained disadvantage and stifled participation.

Iwi often bore the brunt of huge resource costs of mobilization as seen when litigating, and many iwi/hapū often had to ‘pick their battles’ or entrust their battle to a larger iwi collective. This identifies the challenge to Māori collective’s effectiveness as it is often dependent on the resources iwi

can provide; given the key importance of representation and participation it seems unreasonable that iwi should foot the bill for what should be a national imperative. There is also the challenge that more economic resources can afford greater influence (as is seen in many levels of politics); however, this is difficult given the disparities not only between Māori and the Crown, but as is often the case there are disparities between iwi.

What this thesis has often uncovered is the countless times iwi/hapū have had to rapidly create collective representation for social movements. The battles over the foreshore were conducted and funded with limited resources and at times Māori achieved monumental things given such limited resources. The expectations, given the interviews, for the future of Māori representation and participation is that the coming decades will uncover an interesting period for Māori much like the renaissance period of the 1970s. It is expected that as the smaller iwi and hapū finalize their settlements and gain their capital there will be a period of time, which many iwi are currently undergoing, where these iwi/hapū will have to stabilize their new resources and find their feet. Once this is done it is expected that iwi will further develop their skills, strategies and personnel to challenge and create participation and representation for their issues. What we are already seeing is iwi entering policy discussions with clear and practicable directives (Participant 20). Given this we can expect that the next ten years will see the emergence and maturation of great iwi representation challenging and informing the Government both independently and collectively. There are already examples of this collectively in the Iwi Chairs/ Iwi Leaders Group and the earlier to settle iwi independently such as Ngāi Tahu.

When there is a decrease in the vast resource difference between Māori and the government, Māori representation will enter a new era. Participant 20, with both iwi and judiciary experience speaks of this time as the post-litigative, implementation era for iwi, an iwi based academic (Participant 1) refers to this as the post-settlement era, either way you want to look at it, what this era may do is fulfill Durie's expectations of MMP as 'the dawning of the Māori political might (1998).'

Māori Voting Behavior and Efficacy

One final point of access to be discussed is one that actually does interact with the discussions of Parliament and electoral participation: Māori voting behavior. This discussion is positioned here in the analysis of Māori participation and representation as it touches on many of the elements discussed above. Firstly there are issues of efficacy that were often discussed in the interviews, both in reference to the consultation process and to government in general. If Māori have no trust in the government, which will be elaborated later, this turns to a lack of belief in the importance of determining the make-up of Parliament. Furthermore if the effect of Māori MPs both as Māori electorate, and others, is limited by the broader political and parliamentary practices, then we can understand why this would seem less important than external pressures on the policy process.

A few participants (13, 15, 24, 26) made note of the tragedy they perceived to have occurred during the last opportunity to change electoral rolls. These participants noted that if Māori could collectively have mobilized and moved to the Māori electorate the number of available seats would have been raised proportionately (a change introduced by MMP). These electorate MPs have been identified through this research to be an important point of access for Māori, and increasing this could lead to greater influence for Māori voices in the policy process. There are many factors that may have contributed to why Māori do not want to be on the Māori electorate roll, and perceived trust and efficacy is an important factor theorized by the interviewees.

Participant 23 raised a very important way Māori efficacy in all walks of life may be increased. This participant noted that efficacy is hinged on the ability to perceive a better outcome. This participant used the example of identifying to Māori times when participation and representation had a positive and strong influence not only on policy, but also on wider life implications. The example of needing good exemplars for success was posed to increase efficacy across many points of access in the policy process. The calls for action of participants who were involved in consultation processes can be interpreted in this way.

Themes from Participants

A requirement, and an advantage, of the Kaupapa Māori theoretical approach taken by this thesis, is that it is my responsibility to report findings from the community even if they lay outside of the theoretical framework. Therefore to do justice to the process of listening to and allowing the Māori community to guide this research it is important to present those findings that may not be fundamental to the central framework of this research, but are still fundamental to Māori understanding of this topic.

Forced Entry

What was often discussed in the interviews was how and when Māori enter the policy conversation. It was strongly argued by almost everyone I interviewed, that Māori are brought into policy discussions far too late in the process. This results in Māori being placed in a role of opposition as they have not had a hand in the formation of policy and therefore only begin at the point of discussing its flaws. Kitschelt's (1986 p81) mention inefficient program implementation alludes to an important finding of this research that is exemplified by this theme. It can be argued that efficient policy processes avoid opposition and policy turnover through channeling early input into the policy process.

The courts, the UN and the Waitangi tribunal can be seen as examples of Māori 'forcing' their way into the discussion within these case studies. However once the rights had been established and a recommendation made, the actual implementation of these ultimately requires a negotiation or consultation process between Māori and the government. It was argued by many that Māori had to force their way into these discussions, as seen in the foreshore case, or alternately their involvement is

either limited or superficial as within the Marine policy. By not aggregating Māori input throughout the policy process these policies were forced by the movements to be repealed or reformed, at great cost.

Ignoring Previous Precedent: The Memory of Government

In writing this thesis there were some challenging decisions as to which case study should be present first. The final decision was made to present the foreshore policy cycle before the Whānau Ora policy as it allowed the discussion of the development of the Māori Party and their relationship with National prior to having this discussion during Whānau Ora. However what this decision meant was that some emphasis was lost in the discussion of the Foreshore policy process ignoring previous precedent with how to include Māori in the policy process. Although this discussion was had in reference to previous settlement processes, the Whānau Ora policy also showed a long discussion, with a flow of information from Māori, informing government policy.

Participants spoke of the broad consultation processes that were becoming a precedent at the time and how strange it was that they were not utilized during the foreshore policy process (Participants 1, 13, 28 and others). Granted there were large flaws in these processes, for example, a one sided information flow, it shows the Government developing policy that is in line with international movements towards respecting indigenous peoples, and in line with Māori movements of the time. This process was happening openly with Māori and the Labour Party throughout the 1990s and culminated in He Korowai Oranga in 2002. This provides a stark contrast with the closed process of the 2003 foreshore 'knee jerk reaction' and the subsequent policy.

There were two points emphasized by participants who spoke of this strange divergence away from the recently solidifying precedent, both are tied to political memory. The first spoke of how Māori had made large sacrifices throughout the settlement processes and through this developing negotiation process. Participant One who was working within iwi claims processes at the time stated that this sacrifice was made in the interest of moving forward as a nation and working as partners in good faith. There is often this rhetoric of partnership and good faith in New Zealand politics, but what the participants identified was that this is a 'one sided imperative' (Participant4). The sudden divergence away from all the notions of good faith and negotiation that occurred during the foreshore case showed that politics has no memory of such notions when the Government is asked to return the favor. The tragedy here, as stated by the participants, is that this selective memory is allowed for under the current power inequalities; breeding a relationship that often asks Māori to make sacrifices in the interest of a collective New Zealand, but with the power of Pākehā dominance, the Government can afford to ignore these at will.

The second point emphasized by participants when discussing this divergence away from developing precedent is that of trust. The theme of trust runs strong throughout all areas of this

research and will be discussed in detail next; however, it is important to note that when participants spoke of the emerging precedent some participants were cautious in stating this was an established process, as their trust had not yet been repaired from past wrongs: The sudden divergence away from the national and international momentum was something participants stated Māori were not shocked by, due to the Crown's history of 'draconian policies' when it came to land.

Trust

A theme of the issues of trust between Māori and the Government was prevalent within the interviews. Firstly Māori placed a large amount of trust in the judiciary. This was prominent within the foreshore case however; many participants discussed trust in the courts ability to rectify policy flaws as a wider Māori approach.

When the court rulings were made, Māori hoped that the trust developed over the previous government interactions would be upheld over the foreshore policy, yet many participants spoke of a weary distrust in the Government due to past policies and many Māori began preparing for the worst. In terms of this interaction Māori were hopeful the concessions many had made during the settlement processes would be remembered and the notion of good faith and co-operatively seeking a positive future for the country would guide the foreshore policy. What was learnt was that politics has no memory for such things, this policy was a separate case to the Crown, and the Crown were seen to ignore previous precedent and Māori good will and turned to a land grab. Furthermore the one opportunity structure Māori had to fall back on to resist poor policy (the courts) was stripped from them during this process.

Māori trust then turned to the select committee process to realign the policy with what the people, the Waitangi Tribunal and international forums were claiming was appropriate Māori rights. Once again this trust was broken. Furthermore the trust that Māori may have in the Government's ability to take advice from the Waitangi Tribunal was tested and the Government again showed their disregard for any of their (the Tribunals or the UN's) recommendations.

Next Māori trust was tested as the Māori Party, in partnership with National, repealed the Foreshore and Seabed Act only to replace it with the Marine and Coastal Act, with few substantive changes for Māori. After this point (bearing in mind colonial history as well), understandably, Māori trust was well worn and thus many spoke of being cynical with the Whānau Ora policy. A lot of trust was placed in the taskforce with well-known and respected Māori at the helm, but Māori also doubted the effect this would have; "when I was reading all the policies that came through with Whānau Ora I was really quite sarcastic about it and I thought; here we go again, sticking it so the concepts were Pakeha, not Māori, although the words written in it are Māori words and Māori feeling, it is written by Pakeha for Pakeha, or written by Māori in a Pakeha sense (Participant 6)."

With the Turia retiring from the Māori Party, Māori trust is further eroding in the evaluation phase of Whānau Ora, with fears of having the policy changed or be removed. What can be concluded from this trust discussion is firstly the need to strongly establish access points that are effective at enforcing Māori participation and representation in the policy process, and secondly the need to embed these. By embedding these practices Māori would no longer need to operate on a trust basis in terms of participation and representation.

Alternately two participants (16 and 24) with experience of Parliament noted trust as the key determinant of the inability for Māori politicians to form a cross party collective of Māori MPs for Māori interests. These interviewees drew on their experiences with attempts to draw together Māori MPs and both noted a lack of trust creating a barrier to open participation within such collectives. The ability for MPs to utilize information shared in open discussions for individual gain against other member's political parties meant that attempts to work together were often not as frank and open as required to create innovative policy and present a united front regardless of the MPs party of origin.

There is a final element of trust that is based within Māori communities. Firstly there is the need to live up to the trust vested by the community which leads to the below discussions of needing to take care of their 'own little patch.' Secondly there is a level of trust that must be struck between the many differing iwi interests and the wider Māori movement. As is often the case with smaller iwi/hapū or communities that do not have the resources of the larger groups, a level of trust is vested in their neighbors to also represent their views.

Own Little Patch

This theme speaks of the intertwined nature of where and how many Māori representatives get their mandate, and the imperatives or purpose of participating in the policy process. Within the foreshore interview discussions there was often reference to their 'own little patch' when iwi representatives spoke of their struggle with the policy. Their primary purpose was to secure the best policy for their iwi/hapū firstly, followed by the imperatives of the overall Māori movement as a secondary purpose. As previously stated this often caused disagreement between representatives or iwi/hapū. Similarly throughout the Whānau Ora case study there was this same challenge in terms of those representatives who were inside the decision making processes. There was also this final layer of responsibility to ones 'own little patch' that was held by service providers themselves and their struggle to secure funding or to influence policy that would better cater to their community. This rhetoric highlights firstly how Māori representatives are given their mandate by their community and secondly the flawed Pākehā way of thinking one input Māori can represent all Māori voices.

Passive Resistance: Continuation ‘In Spite of’ Policy

Which leads us to the next theme to emerge during the interview processes, of continuing ‘in spite of’ policy. Almost every Māori participant I spoke to about their experiences with the foreshore policies expressed that at the end of the day, when all the battles were fought and lost, Māori had no choice but to continue on ‘in spite of’ the policy. This can be seen as a form of passive resistance, but to Māori it is simply a means of ensuring their cultural survival in the face of poor policy. Many (especially kaumātua and iwi leaders) expressed the feeling that the law of the land could not be allowed to interrupt generations of whakapapa, kaitiakitanga, and mahinga kai sites as these are not derived from the Crown. The interviewees identified their individual local decisions to continue to uphold their traditional marine kaupapa and continue to maintain their way of life regardless of the Act. This was a widespread localized response, to a policy that had eliminated all means of redress and due process and thus left Māori no choice but disobedience in the form of disregard/defiance. In theoretical terms this is made possible because of the weak output structures, Māori are very much aware of their ability to continue ‘in spite of’ policy. Upon the Government’s statement disregarding the UN report, Ted Tamati, Chairman of the Taranaki Māori Trust Board, posed a question that emphasized this point;

If the Government is not prepared to follow the decision and meet with Māori to discuss ways to remove the discrimination from the foreshore legislation, then tribes throughout New Zealand should consider whether they should participate in the Act’s processes. It’s up to the individual hapū but why should Māori use legislation that discriminates against them ? (Ted Tamati 2005)

In the case of Whānau Ora, those working within providers discussed their notion of continuing ‘in spite of’ policy in a different way. These providers have utilized Whānau Ora to further their core services that were developed many years and many policy changes earlier. In this case Māori have adapted how they look to the Government under policies in order to maintain funding whilst continuing with their Kaupapa in terms of the service they provide to their communities. This example of continuing ‘in spite of’ policy was pragmatically discussed by a participant where they stated that “otherwise everything would stop (Participant8).” This can be seen as an example of Māori identifying the dense policy environment and adapting, as policy does, to maintain their Kaupapa.

Finally we can see Ngāti Porou and Te Whānau-a-Apanui continuing to move forward for their people ‘in spite of’ their objections to the Foreshore and Seabed Act and later the Marine and Coastal Act. In this example the iwi leaders made it obvious to Crown representatives that they did not support the policy, but that they would move forward in negotiations ‘in spite of’ their objections in order to make the most of the policy for their people. Here the iwi leaders understood there were still battles to be had over this policy; however, in identifying the current political environment they felt these would need to be carried out by future generations. In the mean time they continued to represent their iwi in

gaining the best agreement they could under the current legislation ‘in spite of’ that legislation’s shortfalls.

International Movements

A point of dispute that emerged among interview participants was their perception of the importance of international activities in reference to Māori movements. On one side many people see international advances and collaborative actions as key to future development of Māori movements. On the other participants stated that the local differences of implementing international policies created serious issues for Māori. While some argued that rights based discussions held great advances for Māori, these arguments were countered by claims that international rights movements stagnated at the shores as implementation required internal movements to gain rights within the nation. The inclusion of the UN and Special Rapporteur was highly commended by many people for increasing the profile of the rights violations of the Foreshore and Seabed Act; however, the lack of influence that resulted was sometimes used to question its importance. On a smaller level this debate can be seen within iwi/hapū compared to the wider Māori movements. It was often argued that advances of the whole do not always trickle down to, or apply to, each locality evenly.

Ultimately it is important to utilize, work with, and further the international movements whilst continuing a dual front of continuing these movements at home. This has been seen often with iwi taking care of their ‘own little patch’ and keeping an eye on their local intricacies, whilst continuing to work together within a wider or national movement.

Conclusion: Kia Whakatōmuri te Haere Whakamua

This final section of this thesis is titled with a whakataukī which means: I walk backwards into the future with my eyes fixed on my past. This whakataukī identifies and exemplifies a traditional Māori ideology of keeping the past, the present and the future connected. This means that as we move into the future we must remain grounded in the past and informed by it. Therefore this thesis would like to build on the past century of experiences with Māori participation and representation to move into a better future. What this thesis has done thus far is identify the reality of Māori participation and representation, through gathering the perceptions and experiences of a variety of Māori across many points within the policy process.

This thesis will finish by moving forward to improvements that should be made in the future, with some of the key recommendations that came through during the interview process. What should first be pointed out is the importance of having policy processes that fit the issue and thus one size does not fit all. All participants were asked for their opinion on how the system could be changed or adapted to better accommodate Māori participation and representation, and I would like to present some key indicative opinions below.

The first participant's opinion I will present on how we as a nation should move forward is the most 'drastic' so to speak. To Pākehā this may seem like a big ask and require a fundamental restructure; however, this highlights how far we must come to address the historical buildup of inadequate Māori policy. This proposition is suggested to create a 'rebalancing' in the light of the prevalent Pākehā policy and growing Māori population. This participant also predicted that such a process will need to be introduced to meet growing international pressure on New Zealand's indigenous relations.

I don't think that any policy that doesn't have 51% input or decision-making capability by Māori is going to be seen as valid in the future simply put. . . I just don't think there is any way of fixing it otherwise, it's just so badly skewed and so badly entrenched over years of legislation on public policy that it is going to take a volcanic eruption of change for it to even become vaguely acceptable, and for NZ to become acceptable in terms of its public policy (Participant 13).

This suggestion came from an experienced policy analyst and advisor highlighting the position Māori are in. When this theory was discussed with another participant as a point of checking the findings, this person with a long career in policy interaction said "I think you'll need more than 51% in reality (Participant 21)." This participant's proposition does justice to how far some Māori believe policy must come to truly open itself to Māori participation and representation.

What was often stated by participants was the need for a "genuinely co-creative space (Participant 1)" this speaks to the need for not just consultation but some form of contribution into the development of decision making processes. Similarly when speaking of the flaws with consultation, another participant called for government to move towards the imperatives of "entering collaborative dialogue or a collaborative engagement process (Participant 25)." In this light, if the Government continues to make token consultation their means of introducing Māori participation, they will continue to miss the mark. Consultation, as a process, does not imply an outcome both parties will have worked on or agreed to.

In engaging Māori in a co-creative/collaborative process they would at least be a part of the development of the policy; What was noted by participants of such collaborative work was that at the end of such processes Māori can walk away feeling appropriately included and understood, even if they do not achieve their result.

If you can agree that you are going to work together, and this is the principles that you are going to work together on, and this is the way that you are going to operate, sometimes you might get to the end and you are not agreeing, but that's okay because you've gone through this process and you understand each other's issues and initiatives. And it has actually been collaborative (Participant 23).

What this process does require is the notion of developing interpersonal relationships based on trust and respect for each other.

Co-creation needs a mindset that is often missed for hard skills and qualifications and relationships. These conversations are emotional conversations and if you can't participate and pay them respect at an emotional level then you won't get the outcome you need. That airy fairy concept is a hard one to sell especially to a government, but it is where all the hard work is done. If you're a tribal leader who is always opposing government, you need real courage in leadership to push for the solution that is half emotional. You're asking them to be on top of all the politics and knowledge AND to have gentle hands. It all comes down to leadership and staff selection (Participant 1).

It was noted by one participant during their experiences working with the policy people surrounding Whānau Ora that "policy people were willing to listen but they came from a different world view (Participant 2)." What this participant noted was the importance of the conversation for both sides in 'enlightening' them to others opinions and world views. This participant noted how enriching these hui were for the policy people, in hearing people say things they had never heard before, accentuating how the relationships between each side can develop their knowledge; however, this needs to be a two sided collaborative process to achieve better policy results.

On the topic of collaborative/co-creative engagement in policy discussions one participant stressed the importance of having the right combination of people at the table (Participant 8). A decision must be made on who will be involved in these processes, for example during whānau ora consultations there were some open consultations where anyone could come, and at other times the taskforce met with select groups of individuals based on what they could provide to the policy discussion. Of course for some policies this open consultation may not be necessary or constructive and thus it is important to determine when and how to manage consultation; however, it is important that there are appropriate entry points for those who desire it.

One of the main points of discussion throughout this thesis has been the flaws within the consultation process and so unsurprisingly many suggestions for improvement touched on this process in some way. It must first be pointed out that although there are many criticisms with how consultation is currently conducted, it is noted as a very important piece of Māori participation in lieu of a better alternative. It was stated by Participant 15 that the process of consultation needs to be seen as important by the Government and should be conducted to some level on every policy issue. As it stands, the Government decides what issues are to be consulted on and to what extent, and quite often it is decided that no consultation should be had on particular issues. A policy worker noted that often their advice to consult on an issue would be ignored for political sensitivities, and other times only select pieces of policy were opened to consultation (Participant 3).

The proposed 'best practice' for consultation was drawn from many interviews. This process would begin at the very conceptualization of an idea or decision to legislate; Māori should be brought into the process at the very beginning, avoiding placing Māori in opposition. Secondly the consultation should be initiated with a clear agenda but without any predetermined approaches which constrain participation, therefore allowing the policy to be entirely co-developed. A participant spoke of their favorite consultation process in which they were involved in, the blueprint for children policy; They were given clear parameters and a rough agenda but told 'we haven't done anything yet, please tell us what you think (Participant 2).'

Finally participant eight discussed the importance of having the people who will be implementing the policy involved in the development conversations. Many service providers stressed the importance of including the influence of those who will be implementing the resultant policy in the initial formation processes to avoid failing at implementation and evaluation. These people have experience in the field, understand the reality, and can foresee the unintended consequences of the policy. This reinforces the feedback required in the policy cycle that is often lost when we take formation and implementation as separate processes rather than one cycle. Furthermore another participant stressed the importance of developing the evaluation mechanisms during this initial collaborative process, and setting these as clear targets from the outset. This would allow those implementing the policy to be aware of the Key Performance Indicators and goals they were working towards, but would also allow them to suggest those that already have established measurement processes within their industry.

Kitschelt and the Treaty of Waitangi

This thesis has argued that effective representation and participation is not only important to upholding indigenous group rights and achieving the expectations of MMP, but importantly to Māori and New Zealand as a nation effective participation and representation is fundamental to upholding the Treaty of Waitangi. Participant 15 spoke of the Treaty imperatives applying equally across all three phases of the policy cycle from implementation, through formation to evaluation, and noted that the common government inability to include Māori within policy evaluation is the largest Treaty violation in modern policy. This thesis has identified some key closures in the policy process in New Zealand politics. The presence of these closures prevent New Zealand from achieving the co-operative partnership this founding document so strongly emphasizes, and in turn creates a policy process that is costly and often highly contentious.

The above propositions for improving the policy process hinge on the consultation of a policy process. As important as the collective forms of Māori representation and the points of access are, the fundamental determinant of effective and quality representation of Māori participation identified by

this research is how and when Māori input into the policy process is allowed. The findings of this thesis conclude that the key to achieving equal citizenship, good will and partnership is in providing and maintaining open input structures for Māori social movements to influence the policy process. This has been identified by participants as a co-productive collaborative process that allows Māori to see their participation effectively influencing policy development throughout the entire policy process. This understanding is supported by the theoretical framework of this thesis as it identifies that closures of input structures create contentious and confrontational strategies and lead to low policy innovation and political stalemate.

Kitschelt's framework identifies that the most innovative and noncontentious policy development and implementation occurs when the policy process is open at the early input stage to growing and changing social movements. Therefore, short of strengthening output structures and becoming a dictatorship, the most efficient means of implementing policy is to encourage participation and find agreement on the core principles in the initial stages of policy formation. It is interesting that the social movement theories, in particular Kitschelt's framework, and the principles of the Treaty of Waitangi both suggest similar approaches for improving policy efficiency and reducing inflammatory policy. Both of these also strongly align with the improvements suggested by the participants as early opportunities for participation and cooperative policy development and decision-making.

On the basis of the interviews and research conducted, this thesis argues that the policy process in NZ is often incredibly inefficient, because it is not getting or allowing enough participation at the beginning before the policy is formulated. If early co-productive consultation is not given and consensus is not achieved, and open processes for input maintained throughout the policy cycle, opposition will form and the policy process will often be initiated all over again. This process is extremely costly for all involved, as contentious policies can strain communities, cost political careers, create government turnover, initiate lengthy court battles and clog up the licensing or policy implementation systems. Therefore to be more efficient and less costly, the process needs to be opened up on the input side, not just to Māori but to everybody. Furthermore the development and implementation of new policies can be expensive for the country, and extremely wasteful if the policy is repealed or reformed shortly after.

The closure of the policy processes to Māori participation was also often argued by participants to have cost the Government in the long run because they missed the opportunity to incorporate "large bodies of work that iwi policy workers have provided for free" (Participant 4). By changing the policy process to one that is open to Māori input partnership will be better achieved.

Finally given that this thesis has identified the ability for the Government to open or close points of access, the policy process needs these early input structures to be embedded. By embedding such processes Māori will no longer have to trust in the good will of any given government and will be able to

trust in the policy process to effectively aggregate their participation and representation. To do so will solidify the partnership principle in accordance with the intent and expectations of the Treaty of Waitangi, allowing Māori to regain tino rangatiratanga in policy making.

Without co-productive, collaborative participation from Māori at the very initial conceptualization of policy and without maintaining feedback and accountability throughout implementation and evaluation phases of policy, government policies will continue to miss the mark. The approach taken by Māori collective representatives to be deliberative at the outset of a policy is an approach the New Zealand Government could learn a lot from. A slower policy process is favored to create public policies that will last the test of time, rather than many policies that will last just long enough to get through the next political term.

Protest actions in my view are a consequence of a failure at the start. So Māori groups are opposing right through, and therein lies the issue. The causes of the protest, and the vehement opposition at times, in policy in general goes back to the lack of the partnership principle, to use a Treaty term... And I know on a lot of different occasions I have said, 'you're lucky we're not in some other country, because they wouldn't be so peaceful.' Which leads to another offence of the Crown which is to assume on Māori good will... a civil society and constitutionally bounded country again adds to the offence. (Participant 15)

There is no reason why New Zealand should continue to produce contentious policies that are inefficient and costly. Embedded and open input structures will minimize the need for communities and policy makers to adopt contentious strategies or policies, allowing the country to move beyond inflammatory racial tensions, and to begin to create policies that move our society towards that which the Treaty of Waitangi envisioned.

Appendix A

Māori Research Advisory Group Consultation Form

Principal Investigator: Josephine Clarke
Project Title: Māori representation in the process of policy formation and implementation Post MMP.
<p>Concise description in lay terms of the proposed project, including brief methodology (up to 1 page): The proposed research is to investigate two fields of policy throughout their formation and implementation to identify when and in what form Māori representation occurred. This will involve a series of interviews with key informants about their involvement in specific policies and their perception of the effectiveness of this involvement. The aim of this thesis is to identify when and how Māori representation occurred and analyze if MMP has in actuality opened the policy process as promised consistently across fields of policy.</p> <p>Participants will be asked to give an account of both their actual involvement and their perceptions of the process of policy formation for Māori. This research will be combined with research on political access structures and parliamentary practices both within New Zealand and internationally to create a picture of New Zealand's current process of policy formation and implementation and to subsequently suggest improvements that may be instituted through parliamentary practices.</p> <p>This research will be conducted following the lead of Kaupapa Māori research theory. This means that this research will not be conducted in the false belief to speak 'for' Māori in anyway. I personally am not of Māori decent, however I do have Māori siblings, nieces and nephews, and other Māori relatives by marriage, like many New Zealanders.</p> <p>I have dedicated a lot of my schooling to learning te reo Māori and other kaupapa such as kapahaka, weaving etc., I used to be fluent in Māori after 5 years studying te reo (including 1 of year full immersion at CPIT). Despite this I am however aware that I am not Māori and this provides some challenges under many Kaupapa Māori theories, I will endeavor to be aware of this bias that I may hold. Therefore I have sought the assistance of a cultural advisory panel as a steering group, which contains Māori and other non-Māori conducting research within the field. This group includes Lindsey MacDonald as deputized by Darryn Russel as a representative for Tuahiwi, Ripeka Tamanui-Hurunui, and Abby Suszko. I have and will continue to take advice and consult with this panel throughout the course of my research. I will allow this research to be Māori led and conducted not only under the advice of my cultural advisory panel, but also by the participants themselves. What is deemed important by them is most important to me as a researcher, as that is the true value of Māori research. This study is only relevant in so much as it can contribute to, and add value to, Te Ao Māori and support Māori development in Aotearoa.</p>

Does the proposed research involve any of the following? Please underline.

Significant Māori content

Access to Māori sites

Sampling of native flora/fauna

Culturally sensitive material/knowledge

Māori involvement as participants or subjects

Research where Māori data is sought and analysed

Research that will impact on Maori

If you have underlined any of the above, please explain in more detail:

The focus of this study is Māori representation within current parliamentary practices and thus this study will be almost solely of Māori content, with complementary research from other nations in terms of their practices towards Indigenous Peoples.

A fundamental aspect of this research is Māori perception of their access to representation within policy formation and thus Māori will be the core subjects for interview. As the research would like to investigate the Māori voice in political processes and Māori perceptions of the effectiveness of this, it is necessary to interview Māori subjects.

Category (To be completed by Research & Innovation):

Appendix B

Unstructured Interview Prompts

- What was your official (if applicable) role in the case, and what did that entail?
- Did you find yourself taking upon any unofficial roles during this policy process?
- At what times in the policy process were you able to actively participate in this policy? (prompt to gain information on both formation and implementation if applicable)
- In what ways was this participation facilitated by your official role? (if applicable)
(prompt how did you participate outside your official role)
- When did you feel you could not participate in the process of this policy? (prompt to gain information on both formation and implementation if applicable)
(what structures/processes obstructed this)
- In your opinion, how important do you feel your official role was/is in terms of Māori representation/participation to the process of policy? (prompt to gain information on both formation and implementation if applicable)(in the past and currently)
- Alternately how important do you feel your unofficial role was/is in terms of Māori representation/participation to the policy process?
(prompt to gain information on both formation and implementation if applicable)
- What other means of Māori participation/representation did you observe during this case?
(prompt to gain information on both formation and implementation if applicable)
- In your opinion how effective were these in increasing Māori representation/participation within the policy process?
(prompt to gain information on both formation and implementation if applicable)
- In what ways do you think the process of policy formation and implementation could better accommodate Māori participation and representation?

Appendix C

Information Sheet for interview subjects.

Josephine Clarke
University of Canterbury
Department: Political Sciences
Telephone: +64 27 277 2073



Māori representation in the process of policy formation and implementation Post MMP.

Tēnā Koe,

Mihi nui ki a koe mo tō āwhina i tēnei whakamātauria ai i tēnei kaupapa.

I am Josephine Clarke, a Masters student at the University of Canterbury. This research is being conducted as a review of the process of policy formation and implementation: to understand Māori representation and participation in the policy process since the change to MMP. This will be done by investigating the role of Māori voices in policy formulation and implementation of two key policies being the Foreshore and Seabed Act and Whanau Ora.

The project is being carried out as a requirement for the degree of Masters by thesis (pols690) by Josephine Clarke under the supervision of associate professor James Ockey, who can be contacted at the email address James.Ockey@canterbury.ac.nz; and Doctor Bronwyn Hayward; Bronwyn.hayward@canterbury.ac.nz. He/she will be pleased to discuss any concerns you may have about participation in the project.

Your involvement in this project will be to provide information to help understand where Māori voices are presented in the policy process by: describing your participation in the specific policy; your perception of the influence this had; and your own opinion of when and how to best officially incorporate Māori representation within the policy process. This will be conducted as a semi –structured interview, and should take roughly 30 minutes of your time. The interview will be audio recorded to ensure information provided by you is not missed or left without context.

After the interview you will be offered a chance to review and amend the transcript of the conversation. You may request confidentiality at any point. If you request not to be named, you may be assured of the complete confidentiality of data gathered in this investigation: your identity will not be made public, and I will ensure that any quotes I use will not identify you or your position. This will help ensure there is no risk to you.

You may receive a copy of the project results at the conclusion of the project. You will be asked if you would like to receive this during the interview process, should you change your mind at a later date and want to receive this you may contact the researcher.

Participation is voluntary and you have the right to withdraw at any stage without penalty. If you withdraw, I will remove information relating to you in the thesis until the 1st of June 2015, when the research is due.

A thesis is a public document and will be available through the UC Library. The data gathered in this project may also be used in further published research. This research may also be presented to Parliament as per the terms of the NZBPT (New Zealand Business and Parliament Trust) scholarship.

The transcripts and audio recording of the interview will only be available to myself and my two supervisors: associate professor James Ockey and Doctor Bronwyn Hayward. This data will be securely stored for a five year period upon completion of this thesis, and then destroyed. If you wish to withdraw from the research it will be destroyed as soon as your request to withdraw is received.

This Project has been Reviewed and approved by the University of Canterbury Māori Research Advisory Group.

This project has been reviewed and approved by the University of Canterbury Human Ethics Committee, and participants should address any complaints to The Chair, Human Ethics Committee, University of Canterbury, Private Bag 4800, Christchurch (human-ethics@canterbury.ac.nz).

If you agree to participate in the study, you are asked to complete the consent form and return to Josephine before the interview is conducted.

Kei te whakamihi atu mo āu manaaki. Tēnā rāwā atu koe.
Josephine Clarke.

Appendix D

Consent Form for interview subjects.

Josephine Clarke
University of Canterbury
Department: Political Sciences
Telephone: +64 27 277 2073
Email: jsc140@uclive.ac.nz



Māori representation in the process of policy formation and implementation Post MMP.

I have been given a full explanation of this project and have had the opportunity to ask questions.

I understand what is required of me if I agree to take part in the research. I understand that participation is voluntary and I may withdraw at any time leading up to the withdrawal date without penalty. Withdrawal of participation will also include the withdrawal of any information I have provided should this remain practically achievable. Withdrawal must be done prior to the 1st of June 2015 to be sure that your information will not be used in the thesis.

I understand that any information or opinions I provide will be kept confidential to the researcher and her supervisors, and that any published or reported results will not identify the participants (or their institution) should confidentiality be requested.

I understand that a thesis is a public document and will be available through the UC Library, may be presented to parliament officials as a condition of scholarship, and future research.

I understand that all data collected for the study will be kept in locked and secure facilities and/or in password protected electronic form and will be destroyed after five years.

I understand that I can contact the researcher Josephine Clarke at the above addresses or supervisor James Ockey at James.ockey@canterbury.ac.nz or Dr Bronwyn Hayward at Bronwyn.Hayward@canterbury.ac.nz for further information.

I understand that this research has been reviewed and approved by the University of Canterbury Māori Research Advisory Group.

If I have any complaints, I can contact the Chair of the Human Ethics Committee, University of Canterbury, Private Bag 4800, Christchurch (human-ethics@canterbury.ac.nz)

By signing below, I agree to participate in this research project.

Name: _____ Date: _____

Signed: _____

Please indicate below how you would like to receive a copy of the interview transcript for review.

Email: _____.

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I would like to receive; a summary of the findings ☐ a full copy of the completed thesis ☐

Please indicate below how you would like to receive this.

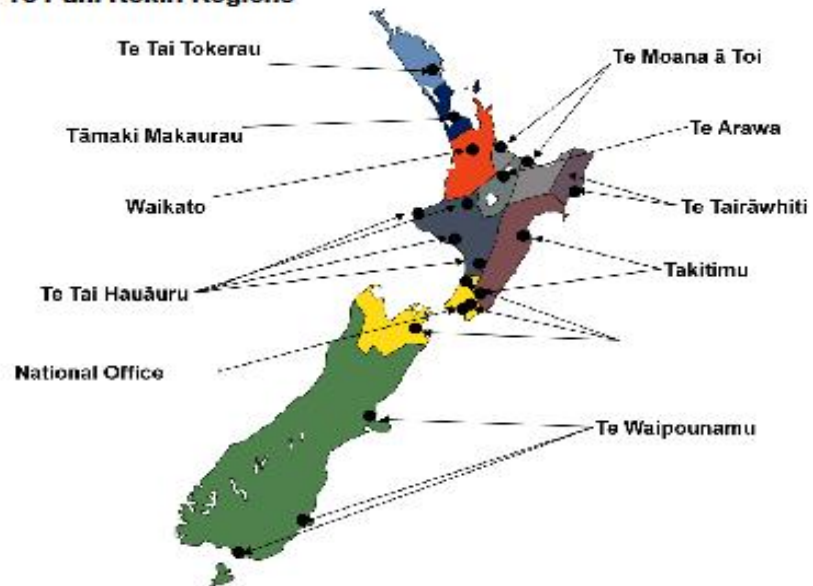
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Appendix E

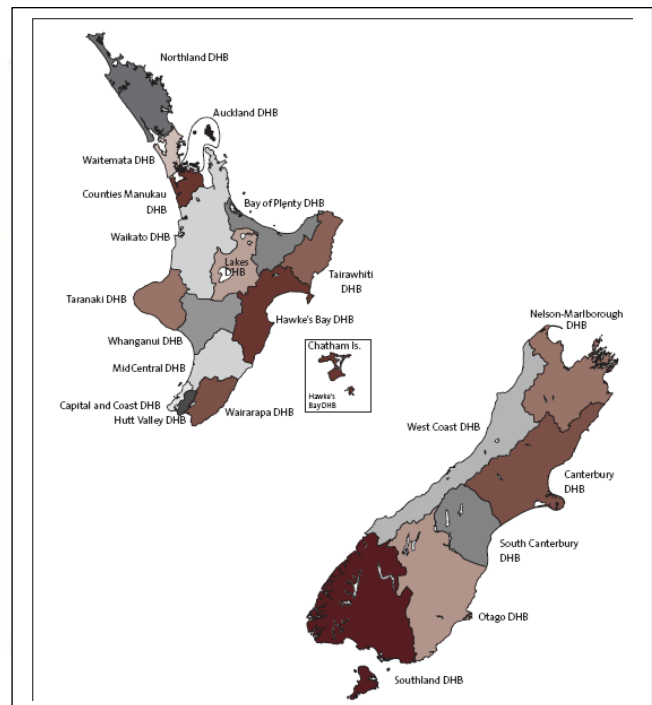
Regional Boundaries

Te Puni Kōkiri Regions



Ministry of Social Development Regions

District Health Board



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